

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

3 UNITED STATES OF AMERICA )  
4 Plaintiff, ) CRIMINAL ACTION FILE  
5 v. ) NO. 1:06-CR-147-WSD-2  
6 EHSANUL ISLAM SADEQUEE (2) )  
7 Defendants. )  
\_\_\_\_\_  
)

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE WILLIAM S. DUFFEY, JR.,  
UNITED STATES DISTRICT JUDGE

**EXCERPT -- DAUBERT HEARING RE: FAWAZ A. GERGES**  
Thursday, July 16, 2009

APPEARANCES OF COUNSEL:

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Christopher Bly)

U.S. DEPARTMENT OF JUSTICE  
(By: Alexis L. Collins)

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(By: Donald Franklin Samuel)

Khurram B. Wahid

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## Thursday Morning Session

July 16, 2009

9:54 a.m.

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## PROCEDINGS

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( In open court: )

8 THE COURT: Good morning. This is the pretrial  
9 conference in the United States v. Sadequee, which is  
10 Criminal Action No. 06-CR-147.

11 Would counsel please announce their appearances?

12 MR. McBURNEY: Robert McBurney, Christopher Bly and  
13 Alexis Collins for the United States.

14 MR. SAMUEL: Don Samuel for Mr. Sadequee.

15 MR. WAHID: Khurram Wahid for Mr. Sadequee.

16 THE COURT: Good morning, and good morning,

<sup>1</sup> See, for example, the discussion of the "right to be forgotten" in the European Union's General Data Protection Regulation (GDPR), Article 17(1).

18                   There are a number of matters to take up. First  
19                   are some motions that have been filed, and I wanted to begin,  
20                   as I have told the lawyers, with the government's motion for  
21                   *Daubert* hearing.

22 If I could frame the hearing, as I have already  
23 done for the lawyers, I would like to do it this way.

24                   That, first, my understanding, Mr. Wahid, is that  
25 you had previously considered other experts, but that -- and

1 specifically Dr. Abbas, Mr. Fuller and Mr. Khan, but that you  
2 have now identified only Dr. Gerges as an expert.

3 And you are not committing to call him, but if any  
4 expert testifies, that it would be Dr. Gerges. Is my  
5 understanding of that correct?

6 MR. WAHID: That's correct.

7 THE COURT: The motion that the government has  
8 filed is not a traditional *Daubert* motion, because ordinarily  
9 the specific opinions that are going to be offered by the  
10 expert then become the subject of the hearing itself.

11 The government here has asked for a hearing so that  
12 there can be a clear articulation by Dr. Gerges of the  
13 opinions, one or more, that he intends to offer, and then the  
14 government would like to know what the basis is for each of  
15 those opinions.

16 And so I thought that the structure of the hearing  
17 ought to be to have Dr. Gerges state specifically the  
18 opinions he may offer at trial, and then for each one to give  
19 his basis for it, and then we will allow the government to  
20 cross-examine him on those.

21 MR. WAHID: Excellent.

22 THE COURT: All right. So let's begin with that  
23 part of the hearing.

24 MR. WAHID: May we begin?

25 Mr. Sadequee would call Professor Fawaz Gerges to

1 the stand.

2 -- -- --

3 FAWAZ A. GERGES

4 being first duly sworn by the Courtroom Deputy, testifies and  
5 says as follows:

6 -- -- --

7 DIRECT EXAMINATION

8 BY MR. WAHID:

9 Q. Good morning. Can you state your name and spell your  
10 name?

11 A. My first name is Fawaz, F-a-w-a-z, and my last name is  
12 Gerges, G-e-r-g-e-s.

13 Q. Where do you currently work?

14 A. I hold a Chair and Professorship in International  
15 Affairs and Middle Eastern Politics, Arab-Muslim Politics at  
16 Sarah Lawrence College in New York, a liberal arts college in  
17 New York.

18 Q. And how long have you been a professor there?

19 A. I have been at Sarah Lawrence since 1996.

20 Q. Have you taught at any other institutions?

21 A. I have taught at Oxford, Harvard, Columbia, and I also  
22 was a visiting professor at Princeton University as well.

23 Q. What subject matter do you teach?

24 A. Well, I have taught courses on political Islam, the many  
25 faces of political Islam. I have taught courses on America's

1 relations with the Arab and Muslim world. I have taught  
2 courses on the relations between the Colonial powers and the  
3 Muslim world. I have taught courses on the top leaders of  
4 the Islamist and the Jihadist Movements, and I have also  
5 taught courses on the making of the Modern Arab and Muslim  
6 world.

7 Q. Coming this fall, where are you going to be teaching?

8 A. Well, I have just been appointed to a professorship and  
9 chair at the London School of Economics and Political  
10 Science, and I will be starting my responsibilities in  
11 September 2009.

12 Q. And what would you be teaching there?

13 A. I will be in charge of supervising graduate doctoral  
14 students in International Relations and Arab and Muslim  
15 Politics and Terrorism and Foreign Policy.

16 Q. I am going to just briefly talk about some of the issues  
17 in your CV. And I don't know if you need a copy of it or if  
18 you have a copy in front of you.

19 Do you hold any degrees?

20 A. Quite a few.

21 Q. Okay. If you can go through them?

22 A. I have Doctorate in the Social Sciences from Oxford  
23 University; that is, History, Politics, Philosophy,  
24 International Relations and Middle Eastern Politics.

25 I have a Master's degree from the London School of

1      Economics in International History.

2            I have a Master's degree from the University of Southern  
3            California in International Relations. And other degrees as  
4            well.

5            Q.    And have you published any books?

6            A.    Quite a few.

7            Q.    All right.

8            A.    I currently am working on a big book, that is the  
9            *Dictionary of the Islamist and Jihadist Movements*, trying to  
10            look at the rise of Islamist and Jihadist Movements, and  
11            focus on basically the most pivotal factions and groups that  
12            we have seen in the last one hundred years, starting with the  
13            Muslim Brotherhood in the late 1930s and ending with Al-Qaeda  
14            and the various generations that we have seen in the last ten  
15            years.

16            My -- I have three books that -- three major books that  
17            relate to what I do on political Islam. One is called  
18            *The Far Enemy: Why Jihad Want Global*.

19            And *The Far Enemy: Why Jihad Went Global*, is really the  
20            story of why jihad was internationalized since the  
21            mid1990s. And it was published by Cambridge University  
22            Press.

23            My other book called the *Journey of the Jihadist:*  
24            *Inside Muslim Militancy*, published by Harcourt Press in  
25            New York. And the book itself is a conversational

1 book. It's based on interviews that I did with the rank and  
2 file of the Islamist and Jihadist Movement in the last  
3 fifteen years.

4 And I have another related book, it's called *America and*  
5 *Political Islam: Clash of Cultures or Clash of Interests?*  
6 published by Cambridge University Press. And the book itself  
7 really you might say turns the table on its head and looks on  
8 how Americans, how the American political and intellectual  
9 establishment views political Islam, and whether our top  
10 leaders -- this book is based on almost one hundred  
11 interviews with American policymakers -- whether we view  
12 political Islam as an existential threat or whether we view  
13 political Islam as basically a clash of interest between we,  
14 the United States of America, and Muslim societies.

15 Q. I know you have written other books, but those are the  
16 books pertaining to this topic of the Jihadist or Islamist  
17 Movements?

18 A. Yes.

19 Q. Have you written any articles on that topic?

20 A. I have written -- I have lost count of how many articles  
21 I have written in the last few years, but let me just mention  
22 a few outlets and more than one article.

23 I have published quite a few articles in *The New York*  
24 *Times*, *The Washington Post*, *Los Angeles Times*, *The Christian*  
25 *Science Monitor*, *The Baltimore Sun*, *Al Hayat*, *Al Jazeera*,

1        *Foreign Affairs, Foreign Policy, you name it.*

2            I do publish quite often and in many outlets, not just  
3        in the United States, but in Europe and the Middle East, in  
4        several languages as well.

5        Q.     Do you have any research affiliations, such as were you  
6        a Carnegie Scholar?

7        A.     I have won three major honors in the last few years.

8        That's a MacArthur Fellowship, a Fulbright Fellowship, and a  
9        Carnegie Scholarship. I returned in 2007 from a  
10       fifteen-month sabbatical where I'm working on this book on  
11       the *Dictionary of Islamist and Jihadist Movements*.

12       Q.     And where were you residing during that fifteen-month  
13       sabbatical?

14       A.     My base was in Cairo, and of course I was traveling  
15       throughout regions. Because I was conducting interviews with  
16       source society leaders, opinion makers, former militants and  
17       officials in several countries.

18       Q.     How often do you go overseas in order to conduct such  
19       research and questions of those who are activists or --

20       A.     Let me answer the question in -- I think if you work on  
21       any particular region, whether it's the Middle East or  
22       Latin America, I think it's a moral responsibility and  
23       intellectual responsibility to spend as much time, as much  
24       time -- that is, I take every opportunity, I don't just live,  
25       but even when I teach, I take every break I have to go and

1 interview and visit and listen to the voices in the region.

2 You cannot teach regional politics while you are sitting  
3 even in your ivory tower either at the London School of  
4 Economics or at Harvard or at Sarah Lawrence. So I go quite  
5 often.

6 Q. And when was the most recent trip you made overseas for  
7 that purpose?

8 A. I have just returned on the 5th of July from a  
9 three-weeks visit to the region.

10 I was trying to go to Iran and talk to some people at  
11 the universities. I couldn't get a visa from the  
12 Middle East.

13 Q. Have you conducted any interviews or made any opinions,  
14 statements in the media?

15 A. Oh, quite a lot. Unfortunately or fortunately since  
16 9/11, subjects I work on are no longer academic, so I have  
17 been privileged to participate in the public debate in the  
18 United States. And between 2001 and 2007, I was the senior  
19 analyst for ABC Television, and I have given probably four  
20 hundred interviews for CNN and ABC and NPR and Al Jazeera and  
21 various public television and radio.

22 Q. This is your curriculum vitae?

23 A. Yes.

24 MR. WAHID: At this point, Your Honor, I move to  
25 introduce Defendant's Exhibit 1, the curriculum vitae.

1                   THE COURT: Any objection?

2                   MR. McBURNEY: Not for the purposes of this  
3 hearing.

4                   THE COURT: It's admitted.

5                   MR. WAHID: I believe there is a courtesy copy at  
6 the Court's desk.

7                   THE COURT: Thank you.

8                   MR. WAHID: Judge, I believe that the state's  
9 motion was mostly a Rule 16 motion, so I'm going to ask, if  
10 it's okay, at this point that we, based upon the fact that I  
11 have submitted the curriculum vitae, that I dispense with  
12 more background and we move into his opinions?

13                  THE COURT: I think that makes sense.

14                  MR. WAHID: All right.

15                  THE COURT: Is there any objection from the  
16 government to doing that?

17                  MR. McBURNEY: No, sir.

18                  THE COURT: All right.

19 BY MR. WAHID:

20 Q. So, Professor, I'm going to now ask you about your  
21 opinions. But before I get into that, let me ask you what  
22 methodology do you use in order to derive the opinions you  
23 ultimately set forth in your publications?

24 A. Well, if you are trained as a graduate student in any of  
25 the, I mean, top universities, your methodology as a source

1 scientist is very simple: Comparative analysis and  
2 methodology.

3 That is, comparative, you have to compare and compare  
4 and contrast and contrast. And also I think as a graduate  
5 student you are taught one single piece of information, and  
6 that is primary data, primary information.

7 And what I mean by primary data and primary information  
8 is not just one interview or two interviews or four  
9 interviews or ten interviews. Multiple interviews, multiple  
10 interviews with different points of views, with different  
11 elements.

12 And also you compare those multiple points of view with  
13 existing evidence, to compare and contrast the reality,  
14 whether -- the veracity of those statements.

15 Let me tell you what I do in terms of methodology. And  
16 I don't think there is anything original about this. I would  
17 say most of the students and scholars of history and politics  
18 do that. I have paid a great deal of attention to the fact  
19 that we are studying human subjects.

20 I mean, when you say Islamists and jihadists, these are  
21 very controversial topics here, and really you cannot do  
22 enough, you cannot do enough to understand the nature of this  
23 particular social movement.

24 And that's why when I said earlier, I said I really am  
25 one of those scholars -- and I could be probably wrong on

1 this -- I tend to spend a lot of time in the region, I tend  
2 to interview as many people as possible, because of course  
3 there are limits to how many interviews you can do.

4 I also tend to read the primary sources written by  
5 indigenous scholars, because remember not only here in the  
6 United States we have a great deal of debate on the nature of  
7 the Islamist and Jihadist Movement, but even in that part of  
8 the world there is a great deal of debate.

9 So I do my interviews with basically the activists  
10 themselves, I read the debates by primary -- by indigenous  
11 scholars, and of course I read the scholarship of my  
12 colleagues. That is, we have hundreds, if not thousands of  
13 scholars working on the topic.

14 I compare and contrast my own interviews, what the  
15 activists tell me, with the scholarship by indigenous  
16 scholars, and also by the insight of my own colleagues, and  
17 I spend -- I mean, you know, writing books takes years. I  
18 mean, on average three, four, five, six years.  
19 And I sift through the evidence.

20 And of course, at the end of the day, at the end of the  
21 day, you have to make up your mind on those questions that  
22 you ask when you start your journey to do research.  
23 Sometimes you arrive at different conclusions. Sometimes you  
24 do your own field research.

25 And that's the beauty of it, the most really fascinating

1 and important findings is when the evidence itself proves  
2 your own original argument or narrative wrong.

3 So it's really multiple, multiple outlets and years of  
4 research. But at the end of the day, you could use all the  
5 instruments, all the tools in the world, you as a scholar  
6 have to really make the final judgments on the big questions  
7 that you put on the table.

8 Q. Can you give an estimate as to, in the area of the  
9 Jihadist and Islamist Movements, how many interviews you have  
10 conducted?

11 A. I really can't tell you, because I've been doing  
12 research on the subject since the -- I mean, probably on the  
13 region since the late 1980s. I would say probably three  
14 hundred interviews, give or take.

15 Q. And let me ask you --

16 A. By the way, just those three hundred interviews,  
17 probably the good ones, the solid ones, probably less than a  
18 hundred. The rest basically in terms of arguments and  
19 academic stuff, not the real stuff.

20 Q. And how long -- when you say an interview, how long  
21 would an interview on average go for?

22 A. Well, it depends. I mean, for example, for my book  
23 *Journey of the Jihadist*, I really wanted to let those  
24 jihadists, who we call jihadists, those who basically use  
25 violence against their own governments and also against other

1 governments as well, I wanted them to tell their story in  
2 their own words, and I wanted really Americans and Western  
3 audiences to have a kind of a glance what really drives this  
4 particular movement.

5 I followed one particular chap, one of the top leaders  
6 of Egyptian Islamic jihad -- the Egyptian Islamic jihad was  
7 the organization of Ayman al-Zawahiri, Al-Qaeda No. 2.  
8 I followed him and a few lieutenants for six months, and  
9 I spent almost twenty hours with this chap.

10 Again so really sometimes the first interview, almost  
11 nothing happens. The second interview, a bit. You really  
12 have to get to know -- and they have to trust you. Remember,  
13 the question of trust is very critical here. We are dealing  
14 with very controversial, very inflammatory elements.

15 It took me about five months in 1998 when I went to do  
16 the research to really get to know some of those activists.  
17 They don't trust you. First of all, you are an American.  
18 Secondly, if you are not a Muslim, like myself, it's very  
19 difficult. Automatically you are CIA, automatically.

20 After 9/11, I will tell you, anyone who tells you --  
21 because I have been in the field, it's becoming almost  
22 impossible to do really serious interviews even with the  
23 former jihadists and militants because of security.

24 So really it depends on the context, it depends on the  
25 scholar, it depends on the activist. Multiple angles go into

1 conducting a particular interview.

2 Q. In your publications and in the work you have done, are  
3 you subjected to peer review?

4 A. Oh, absolutely. I mean this is taken for granted. Not  
5 only am I subjected to peer reviews, I mean, I submit my  
6 own -- I never submit myself, I just never write a particular  
7 piece without sending the piece itself to several  
8 scholars. I mean, that's to improve it.

9       When you publish with Cambridge University Press or  
10 Oxford University Press, my book *The Far Enemy* was basically  
11 reviewed by five top scholars in the field, that is, in  
12 Britain, in France and in the United States. And you  
13 spend -- you have to answer the questions.

14       What peer review means, that means you have to answer  
15 the questions and revise your arguments, in particular if  
16 they say you have some structural difficulties in your  
17 argument.

18 Q. Have you ever changed your opinion based upon peer  
19 review?

20 A. Of course, absolutely. This is taken for granted.

21       In fact, it's a privilege to be able to really, I mean,  
22 subject -- because you want the work to withstand the test of  
23 time. I mean, this is not about -- those books, remember, we  
24 all started working on -- some of us, I'm sorry -- long  
25 before Al-Qaeda became a household name. Al-Qaeda really did

1 not appear on the scene until the 1990s, in fact, early  
2 1990s.

3 Some of us scholars, we are educators, and it's  
4 essential, it's critical, that your work really will  
5 withstand the test of time. Otherwise what you write will  
6 join the heap of history.

7 Q. What would you consider yourself an expert on?

8 A. I'm really no expert on anything. In fact, I don't use  
9 the word expert. I'm sorry, I know here in the courtroom you  
10 use the word expert. I'm really a student and scholar of  
11 international relations and Arab and Muslim politics, broadly  
12 defined.

13 That is, I really -- also I am trained as a social  
14 scientist, and I come to the study of the region, what we  
15 call the Greater Middle East, the Arab world and the Muslim  
16 world, from really a social science perspective. I try to  
17 use my methodology to understand the social movements that we  
18 have been working on in the last fifteen, twenty years.

19 Q. Would that expertise, could it be narrowed to cover the  
20 areas of Salafi-Jihad and Islamist Movements?

21 A. Well, this is the subject I have been working on since  
22 the 1990s. This is one element of what I do, that is, what  
23 we refer to as the Salafi dash Jihadi ideology. This is  
24 really one element within a broader, within a broader  
25 movement called the Islamist Movement or the Jihadist

1 Movement, yes.

2 Q. I'm now going to ask you a little bit about some of your  
3 opinions in that area that we just -- in that topics of  
4 Islamist Movements, the Jihadist Movements.

5 Do you think that -- is there a need to know the history  
6 of these organizations in order to be able to derive your  
7 opinions?

8 A. Well, there is no other way. You cannot -- you  
9 cannot -- one thing we tell our students, you cannot mutilate  
10 history. You cannot say I'm going to start studying this  
11 particular movement in 2001 on Al-Qaeda or let's say when  
12 Al-Qaeda was born in the early and mid1990s.

13 And most of the scholarship what you see in the  
14 United States is what I call the mutilation of history,  
15 talking about Al-Qaeda as if Al-Qaeda was a -- basically you  
16 can discuss Al-Qaeda in a vacuum.

17 That is the question, the book, the subject of my book,  
18 *The Far Enemy: Why Jihad Went Global*, was to tell the story  
19 of why transnational jihadists like Al-Qaeda had risen in the  
20 early 1990s and mid1990s.

21 Because as you see, the reason why this is very  
22 important and this is a theoretically important and critical  
23 question, because the Jihadist Movement was born in the late  
24 1950s, the Jihadist Movement, what we call those  
25 Salafi-Jihadi placed on the scene, risen on the scene in the

1 late 1950s.

2 Q. Now, let me ask you, what is your opinion as to the  
3 roots of this movement?

4 A. Well, I can't -- I mean, this is why it's essential to  
5 look at the movement as a whole. The question for me as a  
6 scholar was and is why did -- why did it take -- why did it  
7 take almost fifty years, almost forty, fifty years for this  
8 particular aspect of jihadism, global jihadism to really  
9 become a potent force on the scene. Why did the movement  
10 from its birth in the late 1950s until the 1990s was focused  
11 on what we call the near enemy, the near enemy being local  
12 Muslim rulers, as opposed to the far enemy, the United States  
13 and its allies.

14 That is, from the late 1950s until the early 1990s, the  
15 focus of this movement was on the near enemy. And what  
16 I tried to do in the book was to try to understand why the  
17 change, why the shift, why the transformation.

18 And I can go into the subject of my book and talk about  
19 the roots of why this movement, the Global Jihadist Movement,  
20 had risen in the 1990s.

21 THE COURT: Mr. Wahid, let me remind you the  
22 structure I need is to know, consistent with what an expert  
23 is permitted to do at trial, what specific opinions they  
24 intend to express. You have tried that twice, and Mr. Gerges  
25 I don't think has gotten there yet.

1                   But, Mr. Gerges, when you are asked for the  
2 opinion, your opinion, you need to state clearly and  
3 succinctly what you intend to say at trial. Because it is my  
4 job to evaluate that in the context of what's important so I  
5 can make rulings.

6                   So while all this is very interesting, it's got to  
7 be responsive to his questions.

8 BY MR. WAHID:

9 Q. Professor, I understand it's a broad topic and you are  
10 full of a lot of knowledge, and I'm not -- so what I'm trying  
11 to do -- let me phrase it this way.

12                  Let's talk about your opinion regarding the formation of  
13 these local movements. That's where I'm going. So the first  
14 question would be if you can define in your mind what is a  
15 Salafi-Jihad or Islamist Movement, and are they different?

16 A. Well, let me state my opinion in a clearer form than I  
17 have done. There are major differences, major qualitative  
18 and empirical and theoretical differences between local,  
19 local Islamist and Jihadist Movements and transnational  
20 movements.

21                  It is empirically and theoretically false to lump  
22 Al-Qaeda as a transnational organization even not only with  
23 Islamist groups, but even with local jihadist groups. Local  
24 jihadist groups are different, qualitatively different than  
25 transnational jihadist groups. And this is a subject that I

1 have written on extensively.

2       And so this is one of the opinions I make, one of the  
3 statements I make is that you cannot say that this is a  
4 movement even. In fact, when I say the Jihadist Movement,  
5 it's not really an accurate statement to say. There are  
6 multiple divisions and cleavages and tensions and  
7 contradictions within this particular movement for the  
8 Jihadist Movement.

9       And the basic, the basic divide within this particular  
10 movement is between local jihadists or Islamist groups that  
11 focus on their own environment and transnationalist groups or  
12 factions that focus on fighting the United States and its  
13 allies.

14 Q. Is it consistent for an individual to be supportive of a  
15 group like Al-Qaeda and at the same time supportive of a  
16 group like Lashkar-e-Tayyiba, also known as LeT?

17 A. Yes, probably. And we have examples of that. I mean, a  
18 few examples of that.

19 Q. Are those two groups, do they have the same agenda and  
20 the same goals?

21 A. No. I mean, it's one thing to say that there are  
22 individuals and elements from within local groups who  
23 basically cross over to Al-Qaeda, to a transnationalist  
24 movement, and another thing to say that Lashkar-e-Tayyiba,  
25 LeT, is synonymous with Al-Qaeda. Al-Qaeda is an entirely

1 different beast than the various local groups, including  
2 LeT.

3 LeT as a group is basically a radical, a radical  
4 militant Islamist Pakistani group that's focused mainly  
5 primarily on the Kashmiri conflict, and LeT is, as I fully  
6 understand based on the knowledge I have, is basically a tool  
7 and an asset of the Pakistani intelligence services, and the  
8 Pakistani intelligence services have used and relied on LeT  
9 on many occasions since the late 1980s.

10 Q. And how is that different from Al-Qaeda?

11 A. Well, Al-Qaeda is a transnational, borderless -- it's a  
12 borderless transnational organization. It does not recognize  
13 borders. It does not really have one particular issue. It's  
14 waging all-out war against the United States and its Western  
15 allies and Middle Eastern allies. While local groups have  
16 the very limited agenda, they are limited.

17 The primary focus of LeT is on the Kashmiri conflict;  
18 that is, the strategic conflict between Pakistan and India.  
19 And that's why, even though you might say there are some  
20 individuals who cross over to Al-Qaeda from LeT or other  
21 groups, basically the movement itself is a local militant or  
22 radical Islamist movement in Pakistan whose focus primarily  
23 is on the strategic conflict between India and Pakistan, and  
24 that's the disputed area of Kashmir.

25 Q. Have there been any conflicts between the local groups

1 such as LeT and the transnational groups such as Al-Qaeda?

2 A. Well, let me answer it -- and I know, Your Honor, you  
3 asked me to be very specific. I mean, I think what you need  
4 to understand here is that there has been more than a  
5 conflict between local jihadist groups and Al-Qaeda.

6 In fact, I talk about a civil -- since you are asking me  
7 my opinion, there has been a civil war taking place between  
8 local jihadist groups and Al-Qaeda since the late 1990s, long  
9 before 9/11. And that's the subject of some of the writings  
10 I have done and the research I have done.

11 And this particular civil war that has been taking place  
12 has not received any critical inquiry in the  
13 United States. There has been a great deal of conflict, and  
14 in the case of LeT, according to some credible sources, in  
15 fact some of the top leaders of Al-Qaeda are extremely cross  
16 with the leader of LeT, Mr. Sayyid, who basically according  
17 to those Al-Qaeda leaders helped the Pakistani government in  
18 2002, the intelligence services to deliver Abu Zubayada, one  
19 of the top Al-Qaeda field lieutenants to the Pakistani  
20 security service.

21 That is, how credible this particular information, do we  
22 have solid evidence? No, I do not have solid evidence. We  
23 have one major credible source that says the Al-Qaeda  
24 leadership is extremely angry with Sayyid for basically  
25 helping the Pakistani intelligence services deliver

1 Abu Zubayada to the Pakistani government, and indirectly it  
2 was, because Abu Zubayada now is in our custody and he played  
3 a key role in the attacks on the United States on 9/11.

4 Q. So would it be fair to say that the Salafi-Jihadist  
5 and/or Islamist Movements are not monolithic, they are not  
6 all one philosophical position?

7 A. Not at all. I mean, I think that's an accurate  
8 statement.

9 This is not to say that the Salafi-Jihadi Movement  
10 regards -- that's not the question. No, it's not a monolith  
11 and there are some major differences and distinctions, both  
12 empirically and theoretically and policy-wise. The worst  
13 thing you could do is lump those, the local jihadist movement  
14 with transnational jihadist movement, even though in some  
15 cases the lines have become blurred in the last few years.

16 Q. You would agree that some members of the local jihadist  
17 groups, such as LeT, have at some point gone on to become  
18 transnational jihadists?

19 A. Yes. I mean, in terms of Jaish-e-Mohammed, you have  
20 many members who cross over to Al-Qaeda and they are part of  
21 the same camp, they are fighting the Pakistani government and  
22 the American and coalition forces in Afghanistan.

23 Q. I'm going to come back and ask you a little bit more  
24 about who the local groups are, so we will come back to  
25 that.

1           I was asking about whether it's monolithic, and you said  
2 no, that it would be a mistake to consider it monolithic?

3       A.    Empirically false.

4       Q.    Why?

5       A.    Because there are differences in terms ideology, in  
6 terms of tactics, and in terms of strategy. And those --

7       Q.    Let's go piece by piece. What are some of the  
8 differences in ideology?

9       A.    Well, the ideology -- let's take Lashkar-e-Tayyiba, for  
10 example. If you read the literature of Lashkar-e-Tayyiba, if  
11 you talk to the scholars who work on Lashkar-e-Tayyiba -- and  
12 I will name two of the top scholars in the field,  
13 Dr. Hassan Abbas at Harvard and Kamran Bokhari who works for  
14 the Canadian intelligence services, and they are both in  
15 Pakistan now doing research.

16           Even though if you read their literature it's full of  
17 inflammatory rhetoric against the United States and the West,  
18 but their ideology is very straightforward. Their ideology  
19 is limited. Their enemy, their major target is basically the  
20 Indian government and the Indian authorities who in their  
21 eyes basically occupy the disputed area of Kashmir.

22           The primary target, the primary ideology of LeT is not  
23 to wage a global jihad against the United States and its  
24 enemies as Al-Qaeda has been doing since the mid to late  
25 1990s, but rather to wage war against the Indian government

1 that is occupying, quote-unquote, the disputed area in  
2 Kashmir.

3 But when I say, sir, that LeT has engaged in some  
4 horrible actions in order to force India to leave the  
5 disputed area in Kashmir, this is in terms of ideology.

6 In terms of tactics, for example, I mean, Al-Qaeda's  
7 tactics --

8 Q. Before you go to the ideology. So from an ideological  
9 perspective, you are saying the local groups and the  
10 transnational groups have fundamentally different goals of  
11 what they are trying to achieve?

12 A. Yes, it's a fundamental philosophical difference; that  
13 is, Al-Qaeda is waging all-out war against the United States  
14 of America. That is the target of Al-Qaeda. The theater of  
15 Al-Qaeda is the world; that is, there are no, I mean,  
16 sovereignty, no borders. It's an unlimited conflict.

17 LeT, basically the primary -- I mean, the philosophy of  
18 the organization, the organization was born in order to  
19 basically liberate the disputed area of Kashmir.

20 Q. And when you earlier said there has been civil war going  
21 on since I think you said the '90s, are you talking about  
22 regarding the ideology, there is different -- these competing  
23 ideologies have been at war?

24 A. Well, it's a very difficult really question to answer in  
25 the sense -- let me, if I may, clarify it a bit. Because

1 I think the basic difference, the basic difference between  
2 local jihadists and transnational jihadists is that Al-Qaeda  
3 basically is a reckless organization and whose attacks on the  
4 United States have endangered the very survival of the  
5 Islamist Movement.

6 So the philosophical, the major philosophical difference  
7 is that the United States, the far enemy, should have never  
8 been attacked in the first place; that is, taking on the  
9 United States was catastrophic not only to the Islamist and  
10 Jihadist Movement, but also to the Muslim community, the  
11 Muslim ummah at large. So this is really the basic divide.

12 Q. So the local groups are, to put it in my terms, not  
13 happy with the fact that Al-Qaeda attacked the United States,  
14 and that is one of the sources of conflict?

15 A. Major, major conflict. Not only are they not happy, but  
16 since 9/11 in particular you have some of the top leaders of  
17 the local Jihadist Movement have taken Al-Qaeda on, and they  
18 have criticized, vehemently criticized Al-Qaeda for the  
19 damage that Al-Qaeda has inflicted on both the Islamist  
20 Movement and the Muslim Movement.

21 Q. And how are they criticized, in what way? Both what  
22 did they say and how did they communicate that publicly?

23 A. Well, you have dozens of books now, you have dozens of  
24 books or manifestos written by former what I call repentant  
25 local jihadists, some of the top leaders.

1           You have dozens of articles written in the leading Arab  
2 press.

3           You have interviews. Some of the top leaders of the  
4 local jihadist groups have given interviews. I mean, this is  
5 not just in terms of -- I'm not talking about the web  
6 stuff. I'm talking about big, I mean, stories and big, great  
7 unfolding debates on the top pages in the Arab world and the  
8 Muslim world and on Al Jazeera and television stations.

9 Q.       So let me ask you about a specific individual.

10       Shaykh Abu Muhammad al-Maqdisi, have you heard of him?

11 A.       Yes.

12 Q.       Is he one of those individuals who has changed their  
13 view from being pro-Al-Qaeda to now being not pro-Al-Qaeda?

14 A.       Well, what happened to Shaykh Abu Muhammad al-Maqdisi,  
15 he is seen -- he was seen as you might say the godfather  
16 ideologue of the Salafi-Jihadi Movement. And in 2004, 2005,  
17 according to sources that have access to Shaykh al-Maqdisi,  
18 he became fed up with the beastly acts and murders and the  
19 suicide bombings perpetrated by the so-called Abu Musab  
20 al-Zarqawi. Abu Musab al-Zarqawi became a disciple of  
21 al-Maqdisi in the 19 -- I think late 1980s, 1990s.

22       And Shaykh al-Maqdisi, Abu Muhammad al-Maqdisi, he was  
23 released from prison from Jordan -- he was arrested -- and  
24 gave a major interview to Al Jazeera satellite television  
25 station in which he criticized the tactics and methodology of

1                   suicide bombings, of car bombings of Abu Musab al-Zarqawi,  
2                   the leader of Al-Qaeda in Iraq, and his attacks on civilians,  
3                   on Shiite civilians.

4                   And in that interview, in that major interview he also  
5                   insinuated that Iraq was the wrong place to wage jihad, that  
6                   basically it was an inferno.

7                   And of course Abu Musab al-Zarqawi responded in probably  
8                   greater inflammatory terms. And that particular exchange  
9                   between al-Maqdisi and Zarqawi also engendered a great debate  
10                  within the Salafi-Jihad Movement or groups in the region.

11                  So, yes, I think you could say that a shift did occur in  
12                  the thinking of Shaykh Maqdisi regarding the whole notion of  
13                  suicide bombings and car bombings and also armed conflict,  
14                  particularly in Iraq. We are talking about the Iraqi  
15                  theater.

16                  Q.    So if one were to cite to something that Maqdisi said in  
17                  let's say the mid 1990s or late 1990s as an example of his  
18                  philosophical position, that may not be accurate in that his  
19                  position may have changed since then and also been made  
20                  public?

21                  A.    Well, let me put it this way. I would not dismiss his  
22                  ideas, the pre2000 I would not dismiss, but I would take into  
23                  account, I would seriously consider and take into account the  
24                  shifts and changes that have taken place in his views.

25                  That is, you don't have now a new man. Abu Muhammad

1 al-Maqdisi is not just basically a newborn liberal  
2 passivist. That's not the question. I'm saying that some  
3 major shifts have taken place in his views.

4 And any understanding of Abu Muhammad al-Maqdisi in  
5 terms of the big picture, you must take into account  
6 basically his views not just against suicide bombings in  
7 Iraq, but now, I mean, there are some major and new  
8 statements given by Abu Muhammad al-Maqdisi.

9 He's become now a critical voice against not just the  
10 Salafi-Jihadi, but against the Salafi, what you call Salafi  
11 extremists in terms --

12 Q. I know that we may touch on it at some point, but since  
13 you said it, what is salafi?

14 A. Salafi is a term that refers to the earlier ways and  
15 practices of the Prophet Mohammed and his companions. And  
16 the Salafi Movement now is one of the most powerful movements  
17 in many countries, in many Muslim countries there is.

18 And Salafis -- we use the term Salafi-Jihadi -- Salafis  
19 tend to be very nonpolitical, they tend to be passivists.  
20 They are really not only against the use of force, but in  
21 fact they are against the participation in politics.

22 Q. Would isolationist be a term used to describe them?

23 A. They are really isolationist. In fact, they won't even  
24 talk to us, they are not really interested at this stage.

25 They believe that the conditions of the Muslim community

1 have deteriorated so much that politics really doesn't matter  
2 anymore. They must really have a rejuvenation, an awakening  
3 of the Muslim community before they start talking about  
4 politics and about government and what have you.

5 Q. Would Maqdisi be considered an Islamic jurisprudence  
6 scholar?

7 A. Al-Maqdisi is more of a Salafi-Jihadi cleric and  
8 scholar. That is, he has a particular community of people  
9 who view -- who read his works. I mean, he's also one of the  
10 most prolific clerics, not just in terms of --

11 Q. And how do they read his works? What's the mechanism to  
12 be able to read something --

13 A. There are two components to the works of Abu Muhammad  
14 al-Maqdisi. The component of Salafism is that it returns to  
15 the golden age and era of the Prophet Mohammed and his  
16 companion. And the idea of jihad, the jihad is a pillar, a  
17 pillar that should not be forgotten and dismissed by the  
18 Muslim communities.

19 So there are really two components to his ideas. The  
20 idea that Muslims must reclaim the golden age, that is, their  
21 lost golden age, and the idea is that Muslims have  
22 deteriorated because they have forgotten about the  
23 institution of jihad, and the ideas of jihad, the institution  
24 of jihad should be reclaimed in order to bring about a  
25 renewal of the Muslim community.

1 Q. And how does he describe the institution of jihad?

2 A. Well, again, he believes that -- his ideas really  
3 basically focus on the near enemy. Remember, Maqdisi is a  
4 Palestinian-Jordanian.

5 Q. Near enemy being local?

6 A. Yes. So his basic focus is on the near enemy, that  
7 those dictators are pirates, basically they have bled their  
8 societies dry. And he believed that it's the duty of every  
9 Muslim, not just in terms to wage war, but rather to really  
10 be committed to investing time and effort and resources in  
11 order to help bring about this renewal, rejuvenation of the  
12 Muslim ummah.

13 Q. Is there a difference in the -- strike that.

14 What's the approach that scholars such as Maqdisi use in  
15 terms of formulating their opinions, and is there a  
16 consistent approach that they use? Such as do they rely on  
17 the Quran and the Sunnah and what else?

18 THE COURT: Can I interrupt? I am so unsure where  
19 this is and what expert opinions are being offered that it's  
20 going to be very hard for me to decide this.

21 MR. WAHID: The expert opinion, Your Honor, is that  
22 there is a --

23 THE COURT: No, I want him to say it. I haven't --  
24 there is a little bit in there that sounds a little bit like  
25 an expert opinion that we got about twenty minutes ago, and

1 since then we have been off on every -- on a bunch of  
2 different tangents involving different people.

3 My job is to understand what the opinions are, and  
4 I'm not sure I understand what the opinions are.

5 MR. WAHID: Well, one of the opinions is this  
6 individual Maqdisi, who is referred to -- who will be  
7 referred to at some point in the case.

8 THE COURT: Ask him -- this is not your  
9 testimony. Ask him to state his opinion.

10 I'm assuming he was brought here understanding that  
11 he is going to be called at a criminal trial -- have you ever  
12 testified at a trial, Mr. Gerges?

13 THE WITNESS: No.

14 THE COURT: That's probably one of the problems.

15 At a criminal trial an expert under 702 expresses  
16 an opinion, and that opinion has to be succinct and clear.

17 And what you are required to do today is have, not  
18 you adopting what you think his opinion is, but to pursuant  
19 to a direct question, because I assume he has been prepared  
20 and understands that he might be called to testify in a real  
21 criminal case in a real United States court and that his  
22 testimony has to comport with the rule regarding expert  
23 testimony.

24 So why don't we start with asking him those  
25 questions and those opinions that you have told him you are

1 going to elicit, and let's just have him tell us what his  
2 opinions are.

3 First, tell me how many are there, and then we can  
4 see how he got to those conclusions.

5 MR. WAHID: Do you want me to tell you how many  
6 opinions, or do you want me to ask him what opinions I'm  
7 going to elicit?

8 THE COURT: Well, maybe we ought to ask him first  
9 how many opinions he has that he intends to offer in this  
10 case.

11 MR. WAHID: All right.

12 BY MR. WAHID:

13 Q. We had discussed, Professor, some categories of opinions  
14 that you are going to render an opinion on. Do you recall  
15 how many categories there were?

16 THE COURT: I don't want categories of  
17 opinions. I want how many different opinions does he intend  
18 to express.

19 MR. WAHID: Well, the answer, Your Honor, would be,  
20 depending on what comes out at trial, potentially  
21 numerous. But what I am attempting to do is discuss those  
22 categories. For example, when I'm talking --

23 THE COURT: We don't talk about categories of  
24 opinions. I am here to evaluate whether he may testify as an  
25 expert under the Federal Rules. I cannot do that unless --

1 you have to anticipate what you intend to offer him on.

2 You identified him as an expert. I need to know  
3 exactly what his opinions are, and I need to know that now.

4 BY MR. WAHID:

5 Q. Regarding Shaykh Maqdisi whom you were already talking  
6 about, clearly you have some knowledge about him. As of  
7 2005, was he a -- were his published works at that time and  
8 published statements in support of the transnational jihadist  
9 agenda?

10 THE COURT: I'm going to interrupt you. Ask him a  
11 direct question to elicit his direct answer to and give me an  
12 opinion.

13 I can't -- I need to hear what he's going to have  
14 to say, because I have to evaluate whether or not I'm going  
15 to allow it. So you need to ask him with respect to that  
16 person, does he have an opinion and, if so, what is it.

17 BY MR. WAHID:

18 Q. All right. As to Shaykh Abu Muhammad al-Maqdisi, have  
19 you formulated any opinions regarding him?

20 A. Yes. I think a critical shift has taken place in his  
21 views by the end of 2004, 2005. That is, his ideas regarding  
22 suicide bombings have changed significantly since 2005.

23 Q. Regarding the Salafi-Jihadist Movement or the Islamist  
24 Movement, do you have any opinion as to the -- as to how and  
25 if there is a debate amongst scholars in that community?

1 A. My opinion regarding local jihadists and transnational  
2 jihadists is that there are some pivotal differences. They  
3 are not the same beast, and they are qualitatively and  
4 empirically and operationally different groups and elements.

5 Q. Do you have an opinion as to within these groups, is  
6 there debate over tactics?

7 A. There is a great debate. There has been a great debate  
8 over tactics long before 9/11, since 1997 between local  
9 jihadists and transnational jihadists.

10 Q. And in your opinion, what are those differences?

11 A. The difference is extremely substantive, because local  
12 jihadists are opposed to targeting the United States and its  
13 allies and Western societies and institutions, while  
14 transnational jihadists like Al-Qaeda, their basic target is  
15 the United States and its Western allies.

16 Q. Do you have an opinion as to how these groups formulate  
17 or justify their positions, the positions they take on  
18 tactics?

19 A. Absolutely. They both refer to the, I mean, great  
20 repertoire of ideas. They both quote their own Islamic texts  
21 and Islamic interpretations and clerics and scholars in order  
22 to basically justify and rationalize their ideas.

23 Q. And are these rationalizations, these discussions  
24 public? Is there any access to them?

25 A. It is public because it's -- I mean, you are talking

1 about debates on television, on radio, and also the leading  
2 newspapers in that part of the world. So, yes, it's a public  
3 debate. It's a great debate. It's a debate that has been  
4 taking place since the late 1990s and has intensified after  
5 9/11.

6 Q. Do you have any opinion about the discourse in the  
7 online jihadist community?

8 A. Yes.

9 Q. What's your opinion?

10 A. My opinion on it is that you cannot take the online  
11 debate very seriously.

12 The online debate -- the web is a double-edge  
13 sword. It's a double-edge sword. We refer to it as a  
14 supplement, in order to supplement what we do. We do not use  
15 it in order to understand the changes and shifts that have  
16 taken place in the movement.

17 Because if you really want to understand what's taking  
18 place within the movement, you have to basically read the  
19 thousands and thousands of pages that are basically being  
20 written in the indigenous languages and debated in their  
21 societies.

22 I would refer to the web, I would use it when needed,  
23 but only as a tool, not as the tool, as the primary tool in  
24 order to understand the changes and shifts that have taken  
25 place within the Islamist and Jihadist Movement.

1 Q. Do you have an opinion as to the website Tibyan  
2 Publications?

3 A. I have used it more than once when I don't feel like  
4 translating some materials myself. I use it to basically  
5 rely upon translations of some texts.

6 Q. And what's your opinion of that website? What's it  
7 about?

8 A. The Tibyan, I mean, you are talking about -- I don't  
9 have access to the chat rooms. I mean, I'm talking about the  
10 publications. It's really more of a you might say  
11 marketplace that basically introduce and makes accessible the  
12 ideas of what we call the Salafi-Jihadi Movement.

13 But also you have books that deal with questions of  
14 multiple subjects, not just in terms of the Salafi-Jihad  
15 ideas. And it's where ideas about how you justify suicide  
16 bombings, what the Islamic texts say about it, the question  
17 of jihad, and you have some of the top clerics and scholars  
18 who write on those subjects. Some of their books are  
19 translated on the website, the publications.

20 Q. Do you have an opinion as to whether or not the -- this  
21 Jihadist Movement would be deemed academic or scholarly?

22 A. Absolutely. I mean, most of the debates, I mean, this  
23 is -- those debates have to do with the interpretation of  
24 Islamic texts and the legitimacy. I mean, most of the books  
25 are not operational books. Those are books that have to do

1 with the question of theology, of interpretation of Islamic  
2 texts, and to what extent certain actions are seen  
3 theologically legitimate or not.

4 So the debates, I mean, if you read a book, four or five  
5 hundred pages, most of it would be on those kind of questions  
6 quoting and citing scholars, whether scholars of  
7 Ibn Taymiyyah and Ibn Kathir, some of the leading scholars,  
8 the clerics used by these movements, and really very few  
9 pages deal with the current conditions.

10 Q. Do you have an opinion -- and define the term when you  
11 answer -- do you have an opinion on whether or not these  
12 websites are a discussion point for Fiqh? Could you define  
13 Fiqh?

14 A. Fiqh is a school of thought, it's a tenet of thought.  
15 And, yes, some.

16 But what we also need to understand is that Tibyan  
17 Publication is a place where the Salafi-Jihadi ideology and  
18 ideas are popularized on it. So you have really multiple  
19 goals and ideas on that particular -- so you have the people,  
20 the hard-core people who basically use it in order to really  
21 see what's happening within this particular movement, and of  
22 course you have debates about Fiqh or school of thought in  
23 Islamic law and Islamic texts.

24 Q. Do you have an opinion as to the -- as to the scope --  
25 as to the scope of that debate regarding violent jihad?

1       A. Well, on the whole, I think the Salafi-Jihad ideology  
2       rationalizes and justifies the concept of jihad, the concept  
3       of the armed struggle in particular in certain contexts, in  
4       certain situations.

5               So I would say, yes, I mean, I think on the whole the  
6       consensus, the dominant interpretation, if I were to myself,  
7       I mean, make judgment, I would say that while there are  
8       questions about Fiqh and debates, but also there are  
9       questions and there are narratives and there are ideologies  
10      that basically advocate the idea of armed struggle and the  
11      ideas of jihad, both locally and globally as well.

12      Q. Do you have an opinion as to whether or not these  
13      websites, specifically Tibyan Publications, also has material  
14      that seeks to limit the use of violence in the jihadist  
15      cause?

16      A. There are some. I mean, there are some materials about  
17      that, yes.

18      Q. I'm going to ask you about a few groups and  
19      individuals.

20               Do you have an opinion -- are you familiar with LeT? We  
21      have discussed that earlier.

22      A. Yes.

23      Q. Do you have an opinion about LeT?

24      A. My opinion about LeT is a local radical Islamist group  
25      whose primary focus is on the disputed Kashmiri

1 conflict. And I also know of some individuals who basically  
2 cross over to Al-Qaeda and the Taliban as well.

3 Q. Are you familiar with the organization Jaish-e-Mohammed,  
4 also known as JeM?

5 A. Yes.

6 Q. Do you have an opinion on that?

7 A. Well, I think there has been more cross-over on the part  
8 of Jaish-e-Mohammed. There is a major split now between two  
9 factions, the founding fathers, that is, Mr. Azhar, who still  
10 is part of the Pakistani state, the state security apparatus,  
11 and there is other factions that cross over entirely to the  
12 transnational camp.

13 Q. Do you have an opinion about the Taliban?

14 A. Well, I mean, the Taliban, you can't just say do you  
15 have an opinion about the Taliban. I mean, the Taliban, this  
16 is a very complex movement. It depends on do I know, that  
17 is --

18 Q. Can I ask you more specifically then? Do you have an  
19 opinion as to whether or not multiple groups use the moniker  
20 Taliban?

21 A. Yes.

22 Q. What's your opinion?

23 A. More and more now there has been fragmentation of the --  
24 I mean, originally from let's say the 1990s up to 2001, the  
25 Taliban was really a local Islamist, local radical Islamist

1 organization.

2       The Taliban has never waged a single transnational --  
3 not even a single -- the U.S. government has not accused the  
4 Taliban of carrying out one single, one single act of  
5 terrorism, I mean, in terms of along the Al-Qaeda line.

6       But now you are seeing more and more fragmentation with  
7 this particular movement, and some elements of the Taliban  
8 are waging war against the Pakistani government, particularly  
9 in Pakistan, and it's extremely difficult now to say what the  
10 Taliban is.

11       We know what the Taliban is. I mean, it's a militant  
12 organization, repressive organization, on and on. But in  
13 terms of distinctions, theoretical and empirical  
14 distinctions, it's becoming more and more difficult to say  
15 what the Taliban is.

16 Q.      Do you have an opinion as to the relationship between  
17 the United States and the Taliban pre-September 11th?

18 A.      Well, I mean, we played -- we, the United States of  
19 America, played a critical role between 1980 and up to the  
20 end of the war in 1989 and even after, we were major  
21 supporters of the coalition, what we call the  
22 Mujahideen. Not just the Afghan Mujahideen, but also the  
23 so-called Afghan-Arabs or the Afghan Mujahideen, those  
24 Islamic fighters who were fighting the invading Soviet  
25 forces.

1           And even in the 1990s, the United States was trying very  
2 hard to find ways and means to deal in particular in the late  
3 1990s with the Taliban and convince the Taliban leadership to  
4 either expel Osama Bin Laden and his contingent from  
5 Afghanistan.

6           So, yes, we were trying to deal with the Taliban, and in  
7 fact the United States did send some foreign aid from  
8 multilateral agencies to Afghanistan in the late 1990s.

9 Q.       Do you have an opinion about Al-Qaeda?

10 A.       Yes. Al-Qaeda is a transnational global jihadist  
11 movement that has been waging war against the United States  
12 and its allies since the mid1990s. It has carried out many  
13 terrorist acts that have probably caused thousands and  
14 thousands of casualties, not just Americans. Most of the  
15 casualties that Al-Qaeda has perpetrated are basically fellow  
16 Muslims.

17 Q.       Are you -- I know we have discussed it earlier but I'm  
18 just going to phrase it this way now. Do you have an opinion  
19 as to whether or not the history of the region of the Muslim  
20 world in the last 50 years played a role in contextualizing  
21 the current jihadist movement?

22 A.       The reason why I tried earlier to give some context, you  
23 can't just provide an opinion without context. Opinions  
24 don't mean anything without the context. The context is as  
25 critical, more critical than the opinions. Because the

1 easiest part is to provide the opinion.

2       The context, framing, methodology, understanding the  
3 movement and understanding the societies and understanding  
4 social and political conditions and foreign policy should be  
5 the basis, should be the drivers that basically inform our  
6 opinions.

7 Q.    Do you have an opinion as to whether or not that  
8 historical perspective is part of the Salafi-Jihadist as you  
9 said earlier scholarly discourse that's going on online?

10 A.    You cannot talk about Salafism or Jihadism or Islamism  
11 or any social phenomenon without understanding history,  
12 particularly in the Muslim world.

13 Q.    The question is do you have an opinion as to whether or  
14 not that historical perspective is part of that discourse  
15 happening online with Salafi-Jihadist scholars?

16 A.    It is pivotal, it's part and parcel. That is, the  
17 historical context and the theoretical context and the  
18 theological context is as important, more important than the  
19 operational context.

20       You cannot say tell me about the military tactics  
21 without understanding really the theological context itself.

22 Q.    What languages do you speak other than English?

23 A.    I speak Arabic, Persian, Ottoman, French.

24 Q.    And do you review material in any of the original  
25 languages there are, or do you have them all translated to

1 English?

2 A. I basically translate my own materials most of the  
3 times. But sometimes it's very, I mean,  
4 labor-oriented. I rely on other sources that translate, like  
5 the American government, and we have now a huge industry that  
6 translate materials.

7 But I do most of the translation. I conduct most of my  
8 interviews in the original languages.

9 Q. Are you able to define terms, Arabic terms you speak of?

10 A. Yes.

11 Q. Are you able to define, explain terms that may come up  
12 in the Salafi-Jihadist discourse that one may see online?

13 A. Yes. And most of the discourse, by the way, I would say  
14 90 percent of the discourse is an Arabic-based discourse.  
15 That is, the Salafi-Jihadi Movement really is an Arabic-based  
16 movement. Most of the top clerics and leaders are  
17 Arab-based.

18 Q. So you would be able to define such terms that you would  
19 see in the Salafi-Jihadist discourse?

20 A. Yes.

21 Q. And have you read publications that are online in the  
22 Salafi-Jihadist discourse?

23 A. Some.

24 Q. Have you -- you said earlier you have been to the Tibyan  
25 Publications website; correct?

1 A. Yes.

2 Q. And can you describe, is there -- what does it look  
3 like? Could you describe, does it have material on it?

4 A. Yes, I mean, it has several texts, I mean, manifestos  
5 and texts written by various clerics and Jihadis and top  
6 leaders of the Salafi-Jihad Movement.

7 Q. And have you ever download and read any of those texts?

8 A. Some.

9 MR. WAHID: I believe unless the Court would like  
10 me to go into more detail, those are the opinions.

11 THE COURT: Is there anything else you would like  
12 to elicit from your expert?

13 MR. WAHID: One moment, Judge.

14 BY MR. WAHID?

15 Q. Professor, are you familiar enough with the  
16 organizations we discussed today that you know who the  
17 leaders are and some information about them and their  
18 backgrounds?

19 A. Yes.

20 MR. WAHID: Judge, in the same way that I know how  
21 the government went through the testimony of Mr. Kohlmann,  
22 I mean, I'm not going to necessarily, unless you require it,  
23 go through it all, but he would also potentially be  
24 discussing the background, history, those sorts of things as  
25 it comes up, if need be, in that he's familiar with the

1 organizations and their structures in the same way that  
2 Mr. Kohlmann is and testified about.

3           But what I did just now is try to stick to the 702  
4 information and obviously try to provide enough basis for the  
5 Rule 16.

6           THE COURT: Well, I'm not sure what that comment  
7 was.

8           This is a *Daubert* hearing in which I make  
9 evaluations on whether or not an expert's opinion is or is  
10 not admissible. What I hear you saying is that you reserve  
11 the right to offer him on any other matter that Mr. --

12           MR. WAHID: Kohlmann.

13           THE COURT: -- Kohlmann might offer.

14           I'm not taking any position on that. If you want  
15 me to consider an opinion that he would offer, you need to do  
16 that today.

17           MR. WAHID: All right.

18 BY MR. WAHID:

19 Q. Can you tell me who the leaders are of LeT?

20 A. Yes. Mr. Sayyid, he was the founder of LeT, and he was  
21 basically released from house arrest a few months ago.

22           And my view of him is that Sayyid is an asset of the  
23 Pakistani security forces, Pakistani intelligence services,  
24 that he serves at the behest of the Pakistani security  
25 services.

1           And the reason why I say so is because of the piece of  
2 evidence I mentioned earlier, that he really is not part of  
3 the same universe of Al-Qaeda and transnational jihadism,  
4 because even Al-Qaeda leaders themselves are very angry with  
5 his support for the Pakistani services.

6           And secondly, LeT, even though you have other factions  
7 now waging war against the Pakistani government, the bulk of  
8 the movement itself and Sayyid's movement is not waging war  
9 against the Pakistani state in the same way that Pakistan  
10 Taliban and some elements of Jaish-e-Mohammed are waging war  
11 against Al-Qaeda -- I'm sorry, against the Pakistani state.

12 Q.       Do you have any opinion as to whether or not LeT has  
13 splintered?

14 A.       LeT has not splintered.

15 Q.       Are there more than one locations where LeT has its base  
16 of operations in Pakistan?

17 A.       As I understand, Pakistan is the major operation of LeT  
18 now.

19 Q.       And where is it based, do you know?

20 A.       In the areas near -- on the Kashmiri Pakistani borders.

21 Q.       Would that be the Waziristan area?

22 A.       No.

23 Q.       What's the -- do you know the province?

24 A.       Punjab and the northeastern areas.

25 Q.       Have you heard of al-Furqan?

1 A. Yes.

2 Q. What is that organization?

3 A. It's a splinter organization from from the  
4 Jaish-e-Mohammed, and the al-Furqan organization now is fully  
5 part of what we call the Al-Qaeda/Taliban transnationalist  
6 jihadist group.

7 Q. Are you familiar with any of the leadership of  
8 Jaish-e-Mohammed?

9 A. Yes. I mean, the founder, Mr. Azhar, who basically  
10 still lives in Pakistan under the radar screen, because the  
11 Pakistani government basically does not really naturally want  
12 him to play any public role.

13 Jaish-e-Mohammed is much more controversial than LeT for  
14 the simple reason that the organization itself has splintered  
15 and it is accused of waging terrorist acts against Indian  
16 forces and targets.

17 Q. You had discussed Shaykh Maqdisi earlier. Is there  
18 anything additionally that -- any other opinions you have  
19 regarding Shaykh Maqdisi that you didn't cover earlier?

20 A. Well, I mean, the point, my view on Shaykh Maqdisi is  
21 that we since the end of 2004, 2005, we have witnessed a  
22 major shift, a critical shift in his opinion vis-a-vis  
23 suicide bombings and car bombings and the so-called amilyat  
24 istishadiya martyrdom operations.

25 But I would say that Maqdisi is not the only pivotal

1       cleric that basically has undergone a major change. I would  
2       say that you have as important leaders as Maqdisi, take  
3       Abdul-Qadir Aziz or Dr. Imam or Sayyid Imam, he was the mufti  
4       of the Jihadist Movement in the 1980s.

5       Q.     Do you have any opinion regard Sayyid Imam?

6       A.     Sayyid Imam or Dr. Imam basically now is one of the  
7       leading critics, one of the leading rivals of Osama Bin Laden  
8       and Ayman al-Zawahiri and both local and transnational  
9       jihad. He is the man whose books and whose manifestos serve  
10      as the constitution of Al-Qaeda, the constitution of  
11      transnational jihad, and who has basically now written major  
12      treaties and been interviewed by leading newspapers in the  
13      Arab world who is saying what Al-Qaeda has done -- basically  
14      has violated the very sacred principles and institutions of  
15      Islam and the institution of jihad.

16           This is a much more I would argue major assault against  
17      the entire universe of transnational jihadism and global  
18      jihadism, and hardly any of this particular debate really has  
19      been reported by our media here in the United States.

20           MR. WAHID: One moment.

21           BY MR. WAHID:

22       Q.     I'm going to touch on a couple of publications and ask  
23      if you have heard of them.

24           Have you heard of Millat Ibrahim by al-Maqdisi?

25       A.     Yes. Millat Ibrahim or the Sons of Ibrahim is one of

1 the most important texts written by Shaykh Muhammad  
2 al-Maqdisi and for the Salafi-Jihadist Movement. It's the  
3 text, it's one of the most powerful and influential texts for  
4 the movement.

5 Q. Have you heard of Fundamental Concepts Regarding  
6 al-Jihad?

7 A. Yes.

8 Q. Do you know who that is by?

9 A. It's by Abdul-Qadir Aziz, I think.

10 Q. And is that -- do you have an opinion on that  
11 publication?

12 A. Well, I think, as I understand -- and I have to refresh  
13 my memory -- I think one of the basic premises of this  
14 particular book is that the debate about the so-called -- and  
15 I could be wrong on this one -- but the covenant of security,  
16 the whole notion of covenant of security is that both  
17 Christians and Jews who travel to Muslim societies and are  
18 given legitimate access visas have -- basically should live  
19 in safety, they should not be targeted.

20 And also I think one of the concepts also is that those  
21 Muslims who go to Western societies and basically are given  
22 safety by Western societies should not really violate the  
23 covenant of security, they should not really carry out  
24 attacks against those societies that have given them safety.

25 THE COURT: Can I just clarify, I was confused by

1 the way you answered those. Have you read both of these  
2 texts?

3 THE WITNESS: Some of them.

4 THE COURT: Have you read them in their entirety?

5 THE WITNESS: No, I have not. I use sections of  
6 those texts that relate to my work.

7 BY MR. WAHID:

8 Q. And as to the issue of the covenant of security, do you  
9 have an opinion of whether or not that is an accepted rule of  
10 Islamic jurisprudence within the Salafi-Jihadist community?

11 A. I think it's debated very greatly within the  
12 community. But I would say the consensus is that the  
13 covenant of security should be respected. With the exception  
14 of some of the most ultra-militants and terrorists like  
15 Al-Qaeda and other organizations, it is taken that this is  
16 really a sacred principle of Islamic law and should be  
17 respected.

18 Q. Do you have any opinion as to whether or not  
19 Shaykh al-Maqdisi has come up out in support of the covenant  
20 of security?

21 A. Yes, he has.

22 Q. What is your opinion?

23 A. Excuse me?

24 Q. What is your opinion on that?

25 A. I think he is correct. I believe him. I don't think --

1 Q. Because it was my question, I wanted your answer, which  
2 is what is his opinion on the covenant of security?

3 A. He basically subscribes to the covenant of security and  
4 he subscribes to the fact that the covenant of security is  
5 part and parcel of Islamic law and he accepts it.

6 Q. Do you have an opinion as to whether or not there is an  
7 academic, for lack of another word, debate in the  
8 Salafi-Jihadist community on the tactic of killing  
9 noncombatants?

10 A. Big debate. This particular debate has taken place  
11 since the 1970s and it has really intensified in particular  
12 after 9/11. Big debate, and on both sides.

13 You have, I mean, people on both sides who advance  
14 arguments of Islamic attacks to say, look -- I mean, to  
15 support their positions. So there is a big divide within the  
16 community of Salafi-Jihadism about whether it's legitimate to  
17 target women and children and civilians and noncombatants.

18 Q. And can you summarize the different arguments?

19 A. Well, the Prophet Mohammed basically prohibited the  
20 attacks against women and children and noncombatants. In  
21 fact, if you go back to, I mean, even destroying a tree,  
22 basically you destroy part of the Muslim community. He was  
23 very clear about that.

24 But since of course the Islamic expansion empire, you  
25 have multiple wars, and the people who say that targeting

1 noncombatants, the people in the Salafi is that, Well, look,  
2 why shouldn't we target civilians, Western civilians? After  
3 all, you target our own civilians. Look at what America and  
4 Western societies have done. We have -- we should do what  
5 you do to us. This is the basic premise.

6 Another premise within this particular school that  
7 accepts and legitimizes targeting civilians says, Look,  
8 I mean, we are the least powerful player in this particular  
9 equation. You have nuclear bombs, you have armies, you have  
10 airplanes. We have to respond in kind, we have to terrorize  
11 you, we have to convince you that if you kill Muslims, we  
12 have the ability even using suicide bombings.

13 So this is the argument of the camp that says targeting  
14 civilians, and this particular camp gained popularity in  
15 particular in the late 1980s and 1990s, throughout the  
16 1990s.

17 I believe, and based on everything that I have read, is  
18 that the pendulum has shifted. The pendulum has really  
19 shifted quite wonderfully from my point of view, shifted  
20 because now you have some of the top former -- I mentioned  
21 Maqdisi, but Dr. Imam and some of the top leaders of the  
22 former Jihadist Movement who are saying that in fact the  
23 worst thing that you can do is to basically target civilians  
24 and target noncombatants.

25 In fact, one of the major criticisms of 9/11 and

1 Al-Qaeda by the local jihadists is, Why would you target  
2 American civilians? American civilians have not done  
3 anything to you.

4 And they go back, they channel the idea the institution  
5 of jihad is that in Islam, the institution of jihad has many  
6 rules and many regulations, and they say it has to be really  
7 an exception, a rare exception for any particular Islamic  
8 group to target civilians.

9 And this has nothing to do with my opinion, but to say  
10 really there is a major attempt in the Muslim world to  
11 basically reclaim the ethical and moral foundations of the  
12 institution of jihad.

13 Q. Are you familiar with a work called A Brief Introduction  
14 to the Virtuous Scholar, Shaykh Abd Al-Qadir Ibn Abd al-Aziz,  
15 and it would be by Imam?

16 A. That's the same -- Al-Qadir Aziz is the same cleric, his  
17 name is Sayyid Ahmed -- Sayyid Imam or Dr. Imam. That's the  
18 same I referred to you earlier.

19 And I'm familiar with his works because I had to -- I  
20 mean, I read most of his works because he was really the  
21 mufti of the jihad. He was -- Dr. Imam, Sayyid Imam was the  
22 leader of the Egyptian Islamic group, that is the  
23 Ayman al-Zawahiri group, first in Egypt and then in  
24 Afghanistan, and his book, the *Umda*, this is a chapter -- I  
25 don't think this is a book, this is a chapter from the *Umda*.

1       The *Umda* is *The Pillar*. And his book really is the  
2       constitution of Al-Qaeda itself.

3           What I tried to say earlier is that not only you have to  
4       go back and read his works that were written in the 1970s and  
5       1980s. You really have to read what happened to Sayyid Imam  
6       now. He's one of the leading critics of not only  
7       transnational jihadism, but also of armed conflict, of war,  
8       of jihad. He argues that in fact the worst thing the  
9       jihadists have done was to wage armed struggle both against  
10       the near enemy and the far enemy.

11       Q.     Of the various texts I just laid out, do you have any  
12       opinion as to whether or not that these texts -- do you have  
13       any opinion as to whether or not they are only reviewed or  
14       only instructive to those who are attempting to carry out  
15       violent jihad?

16       A.     Well, they are read widely, because they are based on,  
17       I mean, Islamic texts and Islamic -- so you have a large  
18       audience who basically read those texts.

19           But also at the same time, those texts target the  
20       Salafi-Jihad community, that is, basically because they  
21       produce the narrative, the paradigm that rationalizes and  
22       justifies the ability of certain groups to wage jihad either  
23       against the local or near enemy or the far enemy.

24           MR. WAHID: Thank you.

25           THE COURT: Mr. McBurney?

1                   MR. McBURNEY: Judge, if we could take our morning  
2 break, ten minutes, I think the government's approach to  
3 Dr. Gerges will be much more focused and streamlined, if that  
4 works with the Court's schedule?

5                   THE COURT: Is that a promise?

6                   MR. McBURNEY: I think.

7                   THE COURT: All right. Let's take a 15-minute  
8 break. We will be back at 25 till.

9                   (A recess is taken at 11:20 a.m.)

10                   -- -- --

11                   (In open court at 11:39 a.m.:)

12                   THE COURT: Mr. McBurney?

13                   -- -- --

14                   CROSS-EXAMINATION

15                   BY MR. McBURNEY:

16                   Q. Good morning, Dr. Gerges. Did I say that correctly?

17                   A. Perfectly.

18                   Q. Only one question about your qualifications, and then we  
19 will get into some terms and some of your opinions.

20                   You mentioned that you speak Ottoman?

21                   A. I read it. Most of my research, of our research is  
22 Ottoman, a language that has disappeared. So any students,  
23 any graduate, in fact, it was one of the major requirements  
24 that if you want to do modern history, you must be able to  
25 read Ottoman documents.

1 Q. That's not modern-day Turkish?

2 A. No, it's not.

3 Q. But it's the same Ottoman as Ottoman Empire?

4 A. Absolutely.

5 Q. I want to talk a little bit about terms you have

6 used. You have referred to the Greater Middle East. Define

7 that for me?

8 A. The Greater Middle East includes the entire Arab world

9 plus Israel, Iran, Pakistan, Turkey, and some even go as far

10 as Afghanistan.

11 So really at the end of the day, you could either define

12 the Middle East in terms of a very small geographic area, or

13 you take a broader -- the U.S. government in the last ten or

14 fifteen years talks about the Greater Middle East because of

15 the postpolitical and social and geographic interconnections

16 in the region.

17 Q. So when you say Greater Middle East, that includes

18 Pakistan and Afghanistan?

19 A. Absolutely.

20 Q. Not Indonesia?

21 A. No.

22 Q. When you talk about the Arab Muslim world, define that?

23 A. The Arab world for teachers and scholars constitutes the

24 heart of the Middle East and the heart of the Muslim world,

25 even though there are more Muslims living in Indonesia, as

1 you suggested, the entire Arab world.

2       What you need to understand is that we are not talking  
3 about numbers, we are talking about the political,  
4 intellectual and theological weight that the Arab region  
5 holds in the region.

6       Arabic is the sacred language of the Quran. Most of the  
7 important pivotal personalities in Islamic tradition and the  
8 current in particular Arab scholars -- and since we are  
9 talking about the Salafi-Jihad ideology or movement, we are  
10 really talking about an Arab ideology written and constructed  
11 and crafted by Arab scholars.

12       And even those Indonesian scholars and Pakistani  
13 scholars and Afghani scholars who basically talk about this  
14 particular movement, they really borrow a page or two, more  
15 than one page or two of those Arab writers and scholars.

16 Q.    Okay, that's helpful.

17       The Salafi-Jihadi ideology, we have heard a lot about  
18 that. I want to focus on the jihad side of it.

19       Jihad can mean inner struggle, a struggle within an  
20 individual to do the right thing versus the temptations of  
21 evil. When you have been referring to jihad and jihadi  
22 ideology, are you referring to inner struggle or call it the  
23 more popular understanding, the more generalized  
24 understanding of engaging in violent struggle against the  
25 enemies of Islam?

1       A. You really in a way, we can't just, I mean, define jihad  
2 either as internal struggle or as armed struggle depending on  
3 the context, because there are multiple interpretations and  
4 multiple definitions of jihad. And any Muslim, not just  
5 activists, if you ask them how they define jihad will give  
6 you various interpretations of jihad.

7           But let me be specific here. If we are talking about  
8 the Salafi-Jihad ideology, we are talking about jihad in the  
9 sense of willingness to basically engage in an armed struggle  
10 on the behalf of persecuted Muslims to defend Muslim  
11 communities and even to try to overthrow some dictators,  
12 Muslim dictators.

13       Q. Whether it's the near enemy or the far enemy, the jihad  
14 that you are referring to when you say Salafi-Jihadist  
15 ideology or that that group is referring to is the  
16 willingness to engage in armed struggle against the  
17 oppressors of the Muslim ummah?

18       A. I think that is broadly accurate, that is, really the  
19 ability and the willingness to engage in armed struggle,  
20 basically mostly, I mean, vis-a-vis the near enemy, that is,  
21 local Arab and Muslim rulers.

22           But the same scholars, by the way, don't just talk about  
23 jihad in the sense of this armed struggle, physical  
24 struggle. They talk about jihad also, other manifestations.

25           But they put stress on this element because they think

1 that the Muslim community has forgotten this particular  
2 aspect, the aspect of armed struggle.

3 Q. But so we are clear, if you are a Muslim thinker and you  
4 believe that the teachings of Mohammed, the Quran, et cetera,  
5 forbid you to engage in armed conflict with another, for  
6 whatever reason, you wouldn't be a Salafi-Jihadist; correct?

7 A. I'm sorry, would you repeat the question, please?

8 Q. Sure. If for whatever reason as a devote Muslim you  
9 believe that armed conflict, war, struggle, killing others,  
10 is an unmitigated moral wrong, you don't do that, and so you  
11 shouldn't under any circumstances, would that take you  
12 outside the group of Salafi-Jihadists?

13 A. Well, first of all, I mean, jihad, the institution of  
14 jihad is really a critical component of the Islamic  
15 tradition. I know, I'm trying to be -- for example, in the  
16 same way that the Judeo-Christian tradition has an  
17 institution called Just War Theory, the institution of jihad  
18 is really similar, institutionally speaking, to the Just War  
19 Theory, that Muslims should have the ability and the  
20 willingness to defend their communities if they are attacked,  
21 period.

22 So you can't find a Muslim who says that I don't believe  
23 that jihad is a legitimate institution under certain  
24 conditions, under certain conditions, that is, when the  
25 Muslim community is attacked.

1           What Salafi-Jihadists are trying to do is to basically  
2 try to make jihad a critical pillar part of -- there are five  
3 pillars in Islam. They want really to reclaim the  
4 institution of jihad not only as a pillar, as a major pillar,  
5 because they believe that in the last -- since the Tenth  
6 Century that jihad has been forgotten.

7           So, yes, yes, they stress the idea that we Muslims must  
8 pay a great deal of attention and must be willing to engage  
9 in jihad on the behalf of their communities.

10          Q.     If what I'm understanding you -- what I'm understanding  
11 you to say is that your opinion is that every Muslim, if he  
12 or she is a true Muslim, believes in jihad, that there are  
13 situations where armed struggle would be appropriate, but the  
14 Salafi-Jihadists put more emphasis on that?

15          A.     Absolutely, and put more emphasis on it, and the entire  
16 writing, I mean, has been to really put it up front. They  
17 are saying to their Muslim communities, Look, you have really  
18 ignored a major pillar of your religion, you have allowed  
19 yourselves to be oppressed by your own rulers because you  
20 have become cowards, you have forgotten about your  
21 religion. Jihad is not just a thing. Jihad is part and  
22 parcel of Islamic tradition and the community.

23          Q.     Are Salafi-Jihadists primarily Shiite or Sunni, or is  
24 that a meaningless distinction?

25          A.     No, it's not meaningless. It's Sunni. The

1 Salafi-Jihadi movement or ideology is a Sunni-based  
2 movement.

3 And there is a great deal of debate about the  
4 Shiites. I mean, this is a big debate. There is a big  
5 debate about Sunnis and Shiites and what Salafi-Jihadis  
6 believe what the Shiites are and are not.

7 Q. And what is your opinion as to what the Salafi-Jihadists  
8 believe Shiites are?

9 A. I think, on the whole -- and again, I'm generalizing --  
10 the consensus is that the Shiites are not authentic Muslims,  
11 at least the top leadership of the Shiites. That the Shiites  
12 have been led astray by some of their clerics, some of their  
13 rulers.

14 And I could go further and say that there is a --  
15 I mean, they have played a major role in pouring fuel on this  
16 really simmering fire under the surface. There is a great  
17 deal of anti -- this is political between -- the divide  
18 between Sunni and Shiitism. It's a different subject.

19 Q. Okay. You used a term -- it may have been in response  
20 to a question from Mr. Wahid who used the term, I don't know  
21 how to spell it, I may not even pronounce it correctly --  
22 Fiqh?

23 A. Fiqh, it's F-i-q-h.

24 Q. What is that?

25 A. Fiqh means either a school of thought, and in particular

1 it relates to Islamic law. It is a branch of Islamic law.

2 So if you study Islamic law, you talk about Fiqh. That  
3 is really, you are an attorney, so this is major school of  
4 Islamic law.

5 Q. But like contracts is a part of law in the  
6 United States, there is the liberal school of law. But what  
7 does Fiqh --

8 A. So there are multiple interpretations in Islamic law,  
9 multiple branches, and any student in Islamic history, they  
10 talk about the various schools, the various Fiqh of Islamic  
11 law. And this is just one branch, depending on what schools,  
12 what particular branch of Islamic law we are talking about.

13 And it's really like saying it's a school of thought, in  
14 the same way we say the Salafi-Jihadi Movement is a school of  
15 thought, is an ideology, is a narrative.

16 Q. What is the Fiqh ideology? That's what I'm trying --

17 A. There is no -- you see, over the last fourteen or  
18 fifteen hundred years, there is Islamic Fiqh, but they have  
19 multiple and multiple, I mean, hundreds of interpretations of  
20 this particular Fiqh by various Islamic scholars and clerics  
21 over the years.

22 Q. Okay. So whatever it is, it's not as narrowly or  
23 clearly defined as Salafi-Jihadism?

24 A. No, no, no. It really encompasses the broad spectrum of  
25 Islamic law and texts and interpretations. It's a

1 distillation of fourteen hundred or fifteen hundred years, of  
2 course based all on the Sunnah, S-u-n-n-a, and the Sunnah  
3 encompasses the Quran, it encompasses the hadiths and the  
4 various traditions of the Islamic community.

5 Q. I think I understand.

6 Let's talk about some of the opinions you offered at the  
7 request of Mr. Wahid. I will start with LeT.

8 First, you would agree that LeT is a designated foreign  
9 terrorist organization, designated by the United States?

10 A. It was designated as I understand in December -- I don't  
11 know if I'm correct -- 2001 by Secretary Colin Powell as a  
12 terrorism organization and then also designated by the  
13 Pakistani government, because the Pakistani government came  
14 under tremendous pressure by the United States to designate  
15 LeT as a terrorist organization.

16 Q. But under U.S. law, LeT is a designated foreign  
17 terrorist organization?

18 A. It's a terrorist -- it's a foreign terrorist  
19 organization designated by the government, our government.

20 Q. As is JeM?

21 A. Yes.

22 Q. Al-Qaeda?

23 A. Yes.

24 Q. Have you interviewed members of LeT?

25 A. No, I have not.

1 Q. Why is that?

2 A. Remember, I mean, the work I have done in the last --  
3 even though I went to Pakistan in 1998 and 1999, the work is  
4 focused basically on the broad spectrum of the Islamist and  
5 Jihadist Movement. That is my interest.

6 You might say why didn't I do any research, why didn't  
7 my writings focus on Hamas or Hezbollah. My focus is  
8 specific on the certain -- on the big movements, on what you  
9 might say the pioneers.

10 Should I? Absolutely, and that's the project I am  
11 working on now is I'm working on a dictionary of various  
12 Islamist and Jihadist movements.

13 Q. You mentioned that LeT's primary focus is the struggle  
14 in Kashmir, and you contrasted it with a transnational  
15 organization such as Al-Qaeda that might attack the far  
16 threat rather than the near threat.

17 You would agree with me that despite its primary focus,  
18 LeT has sent fighters to Chechnya?

19 A. We have evidence that some members of LeT have basically  
20 participated in various conflicts in the international  
21 system.

22 Q. Chechnya?

23 A. Correct.

24 Q. Bosnia?

25 A. Correct.

1 Q. Iraq?

2 A. I'm not sure. I have not seen any evidence about Iraq  
3 whatsoever that involves, even though there are very  
4 unclassified and verifiable reports that the U.S. military in  
5 Iraq -- and I follow the Iraq situation very closely -- that  
6 members of -- a member of LeT was caught in Iraq.

7 Q. Certainly in Afghanistan?

8 A. And certainly in Afghanistan.

9 Q. The first training camp was based in the Kunar province  
10 in Afghanistan?

11 A. Remember, I mean, this is -- when you talk about LeT or  
12 Jaish-e-Mohammed or the Mujahideen, the role of Afghanistan  
13 was pivotal, was really the most pivotal factor.

14 We were engaged in Afghanistan -- we, the United States  
15 of America, we supported the Mujahideen between 1980 and  
16 1989. The Pakistani government was a conduit that basically  
17 used our resources to the Afghan Mujahideen and the Afghan --  
18 and the Arab Mujahideen as well.

19 So to really say that LeT was basically established in  
20 Afghanistan is really, to repeat, to say, I mean, what's true  
21 of most of those movements and groups that we are talking  
22 about.

23 Q. But it's also to state the truth that LeT was founded in  
24 Afghanistan?

25 A. Correct.

1 Q. Now, LeT and Al-Qaeda, you contrasted their -- you  
2 called it their ideology, that LeT is focused on ridding the  
3 Kashmir area of the Indian government and returning it to  
4 that particular ummah, whereas Al-Qaeda is focused more  
5 transnationally.

6 Is it also the case that they share the same ideology in  
7 terms of fighting the enemies of Islam? They just fight it  
8 in different theaters; is that correct?

9 A. No.

10 Q. No?

11 A. It's not correct.

12 Q. Okay.

13 A. I think the primary focus, the primary focus of LeT is  
14 basically the dispute, the strategic dispute and conflict  
15 between India and Pakistan, while Al-Qaeda's ideology is  
16 borderless, that is, does not have a specific -- it's not  
17 about Afghanistan, it's not about Iraq, it's not about  
18 Saudi Arabia. We don't know what Al-Qaeda wants.

19 But we know exactly what LeT wants. LeT wants to create  
20 the conditions that force India to pull out of the disputed  
21 Kashmiri area.

22 Q. Okay, we may be using different terms then. You are  
23 calling it ideology. But the motivation for the fighters in  
24 LeT is to return land to Muslims that they believe is  
25 rightfully theirs but that was taken because of what the

1      British did or the Indian government or someone else?

2      A.     This is a major distinction. It's not just an academic  
3      distinction. To say so about LeT -- in our research and our  
4      findings about those movements, we make a critical difference  
5      and distinction between those groups that focus on occupied  
6      Muslim lands, rightly or wrongly -- we don't know whether  
7      Kashmir is -- and the transnational jihadist movement like  
8      Al-Qaeda that basically wages war because it has a particular  
9      imagined view -- it has an imagined view of the ummah.

10     So you are absolutely correct, those are focused on  
11    occupied muslim territories. And because they are focused on  
12    occupied territories, they differ qualitatively and  
13    empirically and theoretically from groups like Al-Qaeda.

14     Q.     In the way you have described they differ?

15     A.     Yes.

16     Q.     They have some similarities. They engage in terrorist  
17    acts in an attempt to achieve their means, their goals.  
18    Their goals may differ, but some of their means are  
19    similar. Would you agree with that?

20     A.     You are absolutely correct. No one is suggesting that  
21    LeT did not engage in terrorism or Hammas or Hezbollah. They  
22    have, and that's why we designated -- the United States  
23    government designated LeT as a terrorist, as a foreign  
24    terrorist organization.

25     Q.     Well, during your testimony with Mr. Wahid, the one

1 group that you never mentioned in the same sentence as  
2 terrorism was LeT, but you are clarifying that now.

3 You have no doubt that LeT engages in terrorist acts for  
4 whatever aim, and that aim may differ from Al-Qaeda. They  
5 kill people, they murder people, they set off bombs,  
6 civilians have died because of LeT's attacks?

7 A. I hope -- I should have made it very clear that LeT has  
8 engaged in terrorist actions against not only the Indian army  
9 but also Indian targets, and that carried to civilians.

10 All I said was -- you asked me about the philosophy and  
11 ideology, and I tried to say that even though LeT has engaged  
12 in terrorist acts, its ideology and philosophy differs  
13 fundamentally from Al-Qaeda.

14 Q. And I'm not disagreeing with you. You are helping me  
15 understand that. I am not disagreeing with you. Thank  
16 you.

17 JeM, similarly to LeT, has -- while it may be changing  
18 and there may be this schism or this divide within JeM --  
19 originally had a more local focus like LeT?

20 A. More than that. I mean, let me go further and say  
21 Jaish-e-Mohammed has engaged in more -- has carried out more  
22 attacks, and that's why the schism, the cleavage that exists  
23 has taken now a very serious proportion, because the movement  
24 itself is no longer the same. You have the pro-Pakistani  
25 government faction and you have the pro-Al-Qaeda and Taliban

1 faction.

2 Q. Unlike LeT, that schism at least as of today you don't  
3 see?

4 A. No, LeT remains a coherent movement really under the  
5 control of Sayyid, and I would say remains as an asset. LeT  
6 is not waging a war against the Pakistani government in the  
7 same way that the splinter faction of JeM is waging the war  
8 against the Pakistani government.

9 Q. Or Taliban in Pakistan?

10 A. Or Taliban in Pakistan.

11 Q. Okay. Let's talk about Shaykh Maqdisi.

12 A. Abu Muhammad al-Maqdisi.

13 Q. Al-Maqdisi. You described a change in perspective that  
14 al-Maqdisi underwent. How long had he been in custody before  
15 this change of perspective occurred?

16 A. Several years, many years.

17 Q. In whose custody?

18 A. In the Jordanian government.

19 Q. He was being held by the Jordanians under what charge or  
20 pretense?

21 A. Terrorism charges, even though he was found innocent, by  
22 the way, the court case, and he still, even after he was  
23 found not guilty by the Jordanian authorities, the Jordanian  
24 security services decided to keep him, because in their views  
25 he represents a threat to public order and safety in Jordan.

1 Q. Because of the views he espouses?

2 A. Because not only his views, but because he has a large  
3 following, not just in Jordan, but throughout the Muslim  
4 world, and they believe that -- and also the United States  
5 government has made it very clear that we don't want him out  
6 of the prison in Jordan.

7 Q. Okay. In your expert report, a copy of which I received  
8 late yesterday, you indicated that Maqdisi revealed this  
9 change of perspective in November of 2005. He had an  
10 interview on Al Jazeera. Is that the right time frame,  
11 November of 2005?

12 A. End of 2004 according to several security services  
13 members of the Jordanian. While he was in prison he  
14 basically came to realize that what Abu Musab al-Zarqawi, the  
15 leader of Al-Qaeda in Iraq, was doing was basically he was  
16 hijacking, he was hijacking al-Maqdisi's ideas and distorting  
17 and mutilating his ideas.

18 And he decided, he made it very clear that he wanted to  
19 come out and really try to tell the Muslim population about  
20 that, what Zarqawi was doing.

21 Remember, this man, to do what he did, after the fact  
22 that his own son, Omar, 19 years old, was killed in the  
23 Iraq War, his son Omar was fighting the United States and its  
24 coalition, and the fact he believed according to those  
25 sources in prison that he said what Zarqawi was doing, he was

1 really misleading the young Muslim men and creating an  
2 inferno in Iraq, he decided to come out and make an  
3 interview.

4 Q. The dates here are confusing for me. The public  
5 pronouncement by Maqdisi was November 2005, this interview on  
6 Al Jazeera?

7 A. Yes.

8 Q. Tell me the source of information you have that leads  
9 you to say it was a year before that he was already beginning  
10 to say things about having a change of perspective?

11 A. I talked to some Jordanian security officers, because  
12 there was a great deal of debate -- even the United States  
13 government was shocked when he was released. Because,  
14 I mean, Abu Muhammad al-Maqdisi is a heavy-weight. You don't  
15 release him in the midst of a major confrontation in Iraq.

16 And they made the argument to me and other I think --  
17 I talked to them because I go quite often to Jordan, but the  
18 man was changing and in fact would serve as a tool, as an  
19 instrument to try to delegitimize Zarqawi's view.

20 Do I know the exact date? No. The end of 2004 and  
21 2005, the changes, the shifts, I think, broadly speaking.

22 Q. Okay. Are you aware of any public pronouncements by  
23 Maqdisi before the November 2005 Al Jazeera interview?

24 A. The only public pronouncement given by al-Maqdisi was  
25 the interview on Al Jazeera in November 2005.

1 Q. So for a lay person such as myself or somebody  
2 interested in the Salafi-Jihadist Movement who is online,  
3 this or that, none of those people would have had access to  
4 the knowledge of these Jordanian security personnel that you  
5 described?

6 A. Correct.

7 Q. It's not until November 2005?

8 A. Correct.

9 Q. And so we are clear as to this repudiation or this  
10 criticism of Zarqawi, Maqdisi didn't come out and say,  
11 I don't like the Taliban?

12 A. No.

13 Q. He didn't come out and say, I don't like Osama Bin  
14 Laden?

15 A. No.

16 Q. He didn't come out and say, Violent struggle against the  
17 oppressors of Islam is wrong?

18 A. He didn't.

19 Q. His focus was Zarqawi, Zarqawi's tactics, and as you  
20 described it now several times, the inferno in Iraq?

21 A. That's correct.

22 Q. If you are going to fight against the oppressors of  
23 Islam, don't do it in Iraq?

24 A. I mean, what I'm saying is that what he said -- it's not  
25 just about what he said. It's just basically summarizing the

1 interview.

2       When you have the most powerful ideologue of the  
3 Salafi-Jihadi Movement coming out on Al Jazeera and  
4 repudiating and delegitimizing what's happening in Iraq --  
5 remember, there was about the Iraq situation tremendous,  
6 tremendous approval to what is taking place in Iraq because  
7 of the idea that Iraq was invaded and occupied by our  
8 forces.

9       Here you have -- I can't tell you the storm that that  
10 particular one interview, basically the storm itself swept  
11 away the community, and it was -- that's why even Zarqawi who  
12 was on the run had to really come out and respond to.

13       So even though you are absolutely correct about the fact  
14 that he did not really mention the various points you did,  
15 the fact that he did come out and the fact that he did  
16 tell -- try to advise young Muslim men not to go to Iraq  
17 because what was happening in Iraq was really basically  
18 senseless, I think was very critical, very important.

19       Q.    And my point here is not to suggest that you have  
20 misanalyzed the significance of Maqdisi's repudiation of  
21 Zarqawi's tactics. I want to, to use your term, contextualize  
22 it.

23       So we are clear, Maqdisi is not someone who is going to  
24 be considered for a Nobel Peace Prize any time soon?

25       A.    No.

1 Q. He still very actively supports violent jihad, maybe not  
2 using Zarqawi's tactics, maybe not in Iraq?

3 A. I think it's fair to say that Abu Muhammad al-Maqdisi  
4 still subscribes to the idea that the institution of jihad is  
5 a major pillar of Islam and that Muslims must not forget and  
6 must not ignore and must not neglect when there are  
7 conditions, when Muslims are persecuted, are invaded, are  
8 violated, they must basically sacrifice and join in the  
9 institution of jihad.

10 Q. He remains supportive of the Taliban struggle against  
11 U.S. and coalition forces in Afghanistan; correct?

12 A. I really don't know, because I have not heard -- I mean,  
13 but if you ask me about his views in the 1980s and 1990s --  
14 1990s, sorry, I would say that, yeah, he basically -- he  
15 supported, he even justified some of the attacks.

16 Q. But with your familiarity with his views today, are you  
17 aware that he is now an active participant in an online forum  
18 through which Al-Qaeda distributes much of its propaganda?

19 A. I think in 2005 -- you are asking myself about my  
20 views -- I think many members of the Salafi-Jihadi Movement  
21 have taken an entirely different view of where he stands on  
22 the issues, and I think his -- I think he shot one of the  
23 major bullets in the civil war that has been raging within  
24 the Salafi-Jihadi community.

25 Q. Okay. What I'm asking about right now is your knowledge

1 and understanding about Maqdisi's activities now, not 1990,  
2 1980, or November 2005. And my question is are you aware  
3 that he remains an active, vibrant voice in the violent  
4 jihadi community, in particular online?

5 A. I am aware of that, but I'm also aware of the fact at  
6 the same time that those same people you referred to as  
7 Al-Qaeda are vehemently critical of his views.

8 In fact, just in April, just in April -- and there was a  
9 major piece in *The New York Times*, you just referred to it --  
10 he felt the need, al-Maqdisi, to come out and say, You are  
11 dismissing me and you are saying I have gone soft, and not --  
12 look at what the American military at West Point reports on  
13 me, they still consider me, quoting American military and  
14 American scholars, to say that basically al-Maqdisi remains  
15 the same cleric who is dedicated to violent jihad.

16 What I'm suggesting to you is that while you might see  
17 those websites, there is a much more critical view of  
18 al-Maqdisi by the same people whom we used to think they were  
19 part of the same universe, part of the same camp.

20 Q. He's a traitor in the eyes of some?

21 A. Absolutely, he's a traitor who basically stabbed one of  
22 the sons of the Jihadist Movement in the heart during the  
23 confrontation with the American and military forces in Iraq  
24 in 2005.

25 Q. In November 2005 is when he did that?

1       A.     Yes, and that was what I am trying to suggest, even  
2     though, first of all, that particular interview was probably  
3     more important than ten books, because you are talking about  
4     50 million on that particular -- Muslims or Arabs viewing  
5     that particular Al Jazeera, one of the most important  
6     satellite stations, and then the debate that it engendered  
7     was really very critical in delegitimizing the militant  
8     Salafi-Jihadis.

9                 Zarqawi never recovered, I want you to know, after that  
10    particular shot by Maqdisi. Even the flow of men to Iraq  
11    became less and less. I mean, fewer Muslims went to Iraq  
12    after that particular statement.

13       Q.     He ran into some other troubles ultimately, but  
14    I understand what you are saying.

15                 Let's talk a little bit about the internet. When  
16    Mr. Wahid asked you about sources of information upon which  
17    you rely, you responded -- I don't mean this pejoratively,  
18    this was my perspective --

19       A.     Certainly.

20       Q.     -- somewhat dismissively to the internet as a source.  
21    You would look to it, but as a secondary, tertiary, whatever  
22    number -- however you would say fourth source, not a primary  
23    source of information for the type of work you do. Is that a  
24    fair description?

25       A.     Any student of mine, any student of mine or any

1 legitimate professor who writes based on the web and the  
2 internet alone basically would get a D.

3 The web is a double-edge sword, and any scholar, any  
4 student must be fully cautious, extremely cautious of using  
5 the web as a major source of information.

6 The web can be infiltrated, it can be abused, it can be  
7 violated. And the same debates, I want you to know, you can  
8 read on the web. All you have to do is read the newspapers,  
9 the headlines every day, read Al-Misrouw, I mean, I could  
10 give you a dozen newspapers.

11 You go to the sources. You don't use the web as a tool,  
12 academic and legitimate tool of research. No professor, no  
13 legitimate professor, an academic, an educator, would use the  
14 web as a serious and fundamental tool in their research.

15 Q. Wouldn't it depend on what it is that serious academic  
16 is researching?

17 A. Let me give you an example since you are asking me a  
18 question about the web.

19 Let's talk about -- now, I know probably we don't have  
20 the time here. Let's talk about the idea. The idea is in  
21 the last -- since 2002 is that you really cannot understand  
22 the Islamist and Jihadist Movement except it's an online  
23 generation, it's an online generation. It's everything now,  
24 because the movement itself now is under threat.

25 For a person like me who works on the Iraq generation,

1 that is, after 2001, you can go and do research in the field  
2 and interview those young kids in Syria, in Jordan, in  
3 Lebanon, in Yemen, in Saudi Arabia, you can go to the local  
4 mosques, you can go and listen to the debate, that you don't  
5 rely on the web. You don't take the lazy way out and say my  
6 tool of research, my source of knowledge is the web.

7       This is a lethal way of making any critical decision.  
8 Because the web might tell you what they said. You have to  
9 understand the larger context to come back to the comments  
10 and the framing. You have to understand the multiple voices  
11 that are taking place, not just on those webs. Because, you  
12 see, if you listen to the web, you are taking a tiny  
13 fragmented point of view and magnifying this particular -- to  
14 show this is what's happening, this is it. That's not good  
15 science.

16 Q.   If your research is about trends, macro-level  
17 developments, I understand your point.

18       Query this: If you are trying to understand what a  
19 single individual thinks, what a single individual believes,  
20 what a single individual intends to do, do you have the same  
21 skeptical, critical perspective of the internet, if that was  
22 a tool that gave you an ability to see what the person is  
23 saying to others in a public setting as well as in a private  
24 setting?

25 A.   You are asking me as an educator, and I said I use the

1       internet sometimes, but I use it in order to really  
2       supplement and compliment what I do. I don't use it as a  
3       source.

4           We all use the internet. But all I'm suggesting to you  
5       is that -- and this is really not about the court. It's an  
6       educational thing. You never rely on the internet, even in  
7       what -- I mean, there are other avenues.

8           Do I use it? Absolutely, yes. But it's never as the  
9       fundamental critical tool of either analysis -- even the U.S.  
10      government, I mean, I work with the U.S. government. I want  
11      you to know that our top officials never rely on -- they want  
12      the field research, they want the people who go there and do  
13      the research.

14           And of course every statement on the internet, you spend  
15      a week or two trying to analyze that particular statement,  
16      just the authenticity of that particular statement. Think of  
17      how many con men are out there and how many statements have  
18      been infiltrated into the webs over the years.

19           You are asking my views. I use it, but I use it as a  
20      minor tool instead of a critical and serious tool in my  
21      analysis and research.

22      Q. I understand that, you have now said that several  
23      times.

24           My question was if your focus shifts from the larger  
25      themes, the tectonic shifts within the Salafi-Jihadist

1 Movement, the origins of global jihadism, and it narrows down  
2 to -- you say in this court. This case is a much narrower  
3 focus than the level of your work. The focus is  
4 Defendant Sadequee.

5 So my question to you is do you harbor such an antipathy  
6 towards internet-originated information, web-generated  
7 information that is the product of an individual? If the  
8 focus is the individual, someone's postings, someone's  
9 e-mails, someone's private messages, someone's comments in a  
10 web thread, in a forum, if the focus is that someone and not  
11 what impact does this have with the Pakistani government,  
12 what impact does this have for the Jordanian security  
13 services or the Islamist Movement worldwide, if it's narrow,  
14 which is what this case is?

15 A. I have already tried to answer. I'm sorry, I failed.

16 I said I basically use it. I said I use it as -- not as  
17 a major tool. And secondly, even when I use it, I have to be  
18 extremely skeptical about the veracity of that particular  
19 tool.

20 Q. Okay. Let's talk about a specific site: Tibyan  
21 Publications. You mentioned you had been there  
22 before. When?

23 A. Quite a long time ago. I -- you know, I use it really  
24 whenever -- several times. And my research assistants,  
25 they monitor most of the important sites like the Tibyan

1 Publications.

2 Q. Okay. There are lots of questions from that. You just  
3 mentioned the most important sites. What do you mean? What  
4 are important sites?

5 A. On the internet?

6 Q. Right. Not CNN or Yahoo. What do you mean by an  
7 important site?

8 A. You have tons of -- I mean, where do you want to start?  
9 I start every morning, I can give you the sites I  
10 start. I start with Al Jazeera.net, I start with  
11 Al-Misrouw.zet, like with the Muslim Brotherhood, Ikwan site,  
12 I start -- whenever I work on a specific topic on the  
13 jihadist, I go into, you know, Al-Qaeda related in Egypt, the  
14 Islamic group, and of course the various groups in the  
15 world.

16 But I -- I don't -- what -- and this is the point. My  
17 tool, my basic tool in order to understand even local  
18 jihadists and Islamist groups, I don't rely on the internet.

19 Q. Understood.

20 You said Tibyan Publications is one of your important  
21 sites?

22 A. Not important, not at all. I didn't say  
23 important. I said it's one of the sites that I have visited  
24 several times.

25 Q. Okay, I must have misunderstood you. Why did you go to

1 Tibyan? What did it have to offer that interested you?  
2 A. I have already mentioned that when I feel lazy and  
3 I don't feel like really translating some of the materials,  
4 I go there to -- basically it saves me time.

5 Q. But what types of materials? Travel guides?

6 A. Salafi-Jihadi. We have already talked about this is  
7 really, it's a marketplace, not just of discussions about  
8 Islamic thoughts, but the Salafi-Jihadi Movement is well  
9 represented. I mean, it's a site where you have some major  
10 texts written by clerics, basically part of the Salafi-Jihadi  
11 Movement.

12 Q. When you went to Tibyan Publications, did you need to  
13 use a password to get on?

14 A. No, I don't think you -- you have the -- the websites,  
15 they have the chat rooms. My assistants basically do all the  
16 research for me. They have different types. Even, you know,  
17 I receive many reports from Tibyan, from various institutions  
18 in the United States as well.

19 Q. Have you ever personally gone to the website Tibyan  
20 Publications?

21 A. No, not personally.

22 Q. You have never seen what it looks like?

23 A. Well, now I have seen it.

24 Q. Now you have seen it?

25 A. I have seen it in the last probably two weeks.

1 Q. How so?

2 A. The attorneys showed me the website.

3 Q. That's the first time you have actually laid eyes on  
4 it?

5 A. I have publications from the Tibyan sites, translated  
6 publications.

7 Q. That your associates, your research assistants retrieved  
8 for you?

9 A. Absolutely.

10 Q. So if I were to ask you what's the reading list from  
11 Tibyan Publications, if you knew the answer, it would be  
12 because a research assistant said this is what's on Tibyan  
13 Publications?

14 A. My research assistants basically get me most of the  
15 important topics I'm working on. I'm working now on the  
16 *Dictionary of the Islamist and Jihadi Movements*, and I have a  
17 huge library that deals with this particular subject. And I  
18 have -- I have at least one or two research assistants who  
19 basically get me the materials.

20 Q. Are you in a position today to answer the question did  
21 Tibyan Publications ever, ever, at any time, carry any  
22 materials that were critical of the 9/11 attacks?

23 A. Based on everything that I know, based on everything  
24 that I know, and what I know from the research materials that  
25 I have, most of the sources basically fit within the concept

1 of legitimizing the Salafi-Jihadist ideology and jihad  
2 against the near enemy.

3 Q. My question was are you in position to answer the  
4 question has Tibyan Publications ever --

5 A. No, I'm not in a position.

6 Q. Any literature critical of Osama Bin Laden?

7 A. No, not on the Tibyan Publications.

8 Q. No, you don't know, or, no, you know they have never  
9 posted --

10 A. Well, the sources that I have are sources that are  
11 basically translated texts that I got from the Tibyan that my  
12 research assistant got me from the Tibyan website.

13 Q. Some of the texts, Fundamentals of Jihad by Aziz --

14 A. Abdul-Qadir Aziz.

15 Q. -- is that one that a research assistant got off Tibyan  
16 for you?

17 A. Actually I have read the text itself, the *Umda*. But  
18 when I quote the text, I used translated sometimes elements  
19 of it.

20 Q. In response to a question from Mr. Wahid, there was sort  
21 of a three-way exchange with the Court as well, you had said,  
22 Well, one of these I haven't read the whole thing?

23 A. Most of them I don't read them -- let me -- I'm glad you  
24 asked me this question. We have -- I have thousands of books  
25 that I have to go through, and when I work on a particular

1       subject, I read the segments of the books that deal  
2       specifically with my own narrow questions at that particular  
3       time.

4           Do I read all the books that I work on? Of course  
5       not. For one thing, I basically -- you have to be selective  
6       in what you do, because you are dealing with a huge, huge  
7       repertoire of materials.

8           I wish that we could, but, no, I don't.

9       Q.     Did you read the entire text of Fundamentals of Jihad,  
10      Millat Ibrahim?

11      A.     Not Millat Ibrahim, no. As I mentioned to you, I don't  
12      think I -- I mean, this is -- I really read the segment that  
13      deals specifically with the questions I'm investigating at  
14      this particular moment.

15      Q.     I understand that. You now said that several times.

16           So when you form an opinion on the meaning or  
17      significance of Millat Ibrahim or Fundamentals of Jihad, that  
18      opinion is based on reading parts of those texts?

19      A.     I'm not just reading those parts of text. I'm reading  
20      dozens of sources in addition to those texts.

21           You see, my goal is not to really try to write a book  
22      about Abu Muhammad al-Maqdisi or a book about Sayyid Imam.  
23      My idea, my goal is to try to understand basically how the  
24      ideas fit within the larger context of the rise of jihadism  
25      and the changes and shifts that have taken place within

1 jihadism.

2 THE COURT: Let me interrupt for a second. Your  
3 purpose is not here to justify what you do. Your purpose is  
4 to listen to a question and to answer it. I'm instructing  
5 you to do that.

6 THE WITNESS: Of course.

7 BY MR. McBURNEY:

8 Q. So back to that last question and then we will move on  
9 to a different topic. Your assessment of the significance or  
10 meaning of a text like Millat Ibrahim is based in part on  
11 having read some of it?

12 A. Yes.

13 Q. Other materials as well, other people may have read it,  
14 but you haven't read the whole thing?

15 A. Yes.

16 Q. You met the defendant in this case, Mr. Sadequee?

17 A. Yes, sir.

18 Q. When was that?

19 A. Yesterday.

20 Q. How long did you get to speak with him?

21 A. What time was it? 9:00 till 12:15.

22 Q. What did you talk about?

23 A. Well, the attorneys really spent most of the time  
24 talking about the case.

25 Q. I don't want you to -- to be very clear, whatever the

1 attorneys said to the defendant and he said to them, I'm not  
2 asking about that. I am wondering if you had any dialogue  
3 with Mr. Sadequee?

4 A. I did.

5 Q. What did you talk about?

6 A. I asked him about how is he doing, how is he feeling.  
7 I asked him about -- we discussed his case, and I said  
8 I really would like to meet him more, because we didn't have  
9 the time to -- I want to meet him more, if I could, to talk  
10 about the case. I wanted to listen to what he had to say.

11 Q. Did you discuss with the defendant any of the topics we  
12 covered today, LeT, Shaykh Maqdisi, anything like that?

13 A. We discussed what he did, some of the learning. We  
14 talked a great deal about Ibn Taymiyyah and Ibn Kathir and  
15 the Islamic scholars that he read.

16 Q. Those -- let's talk about the scholars. What was the  
17 first name?

18 A. Ibn Taymiyyah.

19 Q. Can you spell that?

20 A. Ibn, I-b-n T-a-y-m-i -- Taymiyyah -- a-h, and Ibn  
21 Kathir, K-a-t-h-i-r.

22 We talked about Abdul-Qadir Aziz.

23 Q. That's --

24 A. Sayyid Imam.

25 Q. Sayyid Imam?

1 A. Sayyid Imam or Dr. Imam.

2 Q. This is someone else who has undergone --

3 A. Transformation --

4 Q. -- revision of his views?

5 A. And he was really shocked when I talked to him about the  
6 changes that have taken place. He said he didn't hear about  
7 it, he didn't know about his views had changed.

8 Q. He, the defendant, was unaware that Sayyid Imam had  
9 moved away from some of his more pro-violent jihadi  
10 perspectives?

11 A. The writings of Dr. Imam took place in 2007. So this  
12 particular debate, even though Sayyid Imam has been at  
13 dispute with Al-Qaeda long before 9/11, Dr. Imam, Abdul-Qadir  
14 Aziz, left Afghanistan in the 1990s and went to Yemen because  
15 of his disagreement with Ayman al-Zawahiri and Osama Bin  
16 Laden. He believed that they were taking the jihadist ship  
17 on very horrible course of action.

18 Q. So those are three scholars. Did you talk about anyone  
19 else or anything else with the defendant?

20 A. What did we talk about? He talked about the things  
21 that he believed in and how his views have evolved over the  
22 years. He said -- he talked a great deal about the fact that  
23 all really was he interested in was basically thinking and  
24 ideology and scholarship. That's the kind of talk we are  
25 talking about.

1 Q. That's his current perspective or that was his  
2 perspective?

3 A. He said that was his perspective. He said he never --  
4 he was saying that this is really part of the scholarly  
5 thing. He was interested in the scholarly Islamic texts.

6 Q. Are you familiar with a gentleman by the name of  
7 Younis Tsouli?

8 A. I know a bit about him, but I can't really talk about  
9 his specific case.

10 Q. Are you familiar with any of the other co-conspirators  
11 in Defendant Sadequee's case?

12 A. Just that -- not really in any specific or  
13 knowledgeable -- I can't pass any knowledgeable -- I mean,  
14 any intelligent opinion about them.

15 Q. So you are not prepared, you don't expect to be called  
16 upon by the defense attorneys to offer any opinion about the  
17 defendant or any of his co-conspirators in this case?

18 A. Specifically I don't think so. I don't know the  
19 individuals.

20 I mean, my only encounter with Mr. Sadequee was  
21 yesterday. So I really don't -- even though I have read all  
22 the chats that -- by Mr. Sadequee and the other defendants as  
23 well.

24 Q. So the materials you have reviewed that were provided by  
25 the defense is the Tibyan website?

1 A. They did not provide me with the Tibyan website before  
2 I came here. They talked about the Tibyan Publications and  
3 I said I know -- of course, I know some of the publications.

4 Q. Okay. I thought you had said just a little while ago  
5 that two weeks ago you got something about the Tibyan  
6 Publications from the defendant?

7 A. We discussed it. They didn't send me any  
8 publications. I have the publications, I have some of  
9 them. But we discussed the Tibyan Publications, and  
10 yesterday we discussed the Tibyan Publications as well.

11 Q. You have read chats?

12 MR. WAHID: For clarity, the actual website disk  
13 that the defense was provided the Professor saw for the first  
14 time yesterday.

15 MR. McBURNEY: Okay.

16 BY MR. McBURNEY:

17 Q. You -- they provided you with some chats that you have  
18 read?

19 A. I think I have read 90 percent of the chats.

20 Q. Whatever the number is, some of what you received from  
21 the defense was chats?

22 A. Yes.

23 Q. Did you get any e-mails?

24 A. E-mails?

25 Q. Not meaning did Mr. Samuel write you an e-mail, but did

1 the defense provide you with hard copies of e-mails that the  
2 defendant wrote or received?

3 A. Yes. I have -- I think they sent me most of the  
4 materials by Mr. Sadequee.

5 Q. So chats, e-mails. Anything else that you remember  
6 reviewing?

7 A. I have reviewed mainly really the chats and the e-mails,  
8 and that's the time that I have had ability to do so.

9 Q. Okay. Give me one second.

10 MR. McBURNEY: Thank you, sir.

11 THE COURT: Any redirect?

12 -- - - -

13 REDIRECT EXAMINATION

14 BY MR. WAHID:

15 Q. Doctor, regarding the questions about al-Maqdisi, you  
16 stated that there was a public statement on Al Jazeera in  
17 November of '05. In that statement, did he refer to a book  
18 he had written, Waqfat?

19 A. Waqfat.

20 Q. What does that mean translated?

21 A. The book itself is one of the most important books, and  
22 one of the central arguments of Waqfat is about the ideas of  
23 targeting civilians. I think in this particular sense it  
24 makes the argument that it must be under exceptional  
25 situations and conditions where civilians should be attacked

1 and should be targeted.

2 Q. And in that Al Jazeera statement, he refers to this book  
3 of his; correct?

4 A. Yes. And I think the Al Jazeera interview and what he  
5 said, he made it very clear that he -- he insinuated if he  
6 did not make it very clear that basically what was happening  
7 in Iraq does not serve either the interest of the Muslim  
8 community or jihad itself.

9 Q. And the book that he was referring to, Waqfat, was  
10 written before he makes the statement; correct?

11 A. Yes.

12 Q. And it was published before he makes his statement?

13 A. Yes.

14 Q. So that book is already in the public sphere prior to  
15 November of '05?

16 A. Yes.

17 Q. And that's actually a book he wrote, if you know, did he  
18 write that book while he was in jail?

19 A. I really don't know, but it was written like in the  
20 '90s, as I remember.

21 Q. You were being asked questions about the online  
22 discussions amongst the Salafi-Jihadist community. Have you  
23 seen, other than the chats in this case, have you gone to  
24 those chat rooms, have you ever seen those discussions  
25 yourself?

1 A. I don't use them except in very rare situations.  
2 Sometimes my colleagues send me certain -- my assistants, but  
3 that's not really a major tool of research that I use.  
4 Q. Okay. You were asked about LeT and how LeT members  
5 participated in places, in Chechnya, Bosnia, Iraq, places  
6 like that. Does LeT itself as one of its missions have  
7 participation in the conflicts of Chechnya, Bosnia, Iraq?  
8 Is that part of its mission?  
9 A. Not at all. In fact, according to Sayyid himself, those  
10 are rogue elements, that basically the movement --  
11 Q. I'm sorry, what elements?  
12 A. Rogue elements.  
13 Q. Rogue.  
14 A. That is, the strategy of the movement itself is focused  
15 on the Kashmir situation.  
16 Q. You were asked about Tibyan Publications and why you use  
17 it or why your research assistants use it. What is it that  
18 it provides? Is it a translation source for you?  
19 A. For myself, really that's all I use it for. I mean,  
20 also because I translate my own materials, but when I need a  
21 particularly long section, I use their translation. Again  
22 I use my own as well, but just to simplify my own  
23 translations.  
24 Q. So this would be material that might be in Arabic or  
25 another language potentially on some other source, some other

1 website or available some other place, but if you go to the  
2 Tibyan Publications website you get that same material just  
3 translated already into English?

4 A. The same materials I think, as I understand, exist on  
5 various websites as well.

6 Q. But they also exist on Tibyan Publications?

7 A. Yes.

8 Q. And when you say you had folks go there and get that  
9 material, how did you then use that material that you got?

10 A. Only in terms of translation.

11 Q. I mean, the materials you got were some writing by some  
12 particular scholar; correct?

13 A. Yeah. Those scholars have already -- I mean, I read  
14 their works in Arabic. Take for example --

15 Q. Are you using that material, you know, in your teaching,  
16 in your writing?

17 A. Mainly in my writing and of course in my teaching  
18 indirectly. For example, Abdul-Qadir Aziz, I mean, this is  
19 one of the most pivotal, I mean, theoreticians of the  
20 Jihadist Movement, and I have read his books in Arabic.

21 Q. Would you consider the material you are getting from  
22 Tibyan Publications to be source material for your scholarly  
23 writings?

24 A. Yes.

25 MR. WAHID: Thank you.

1 THE COURT: All right. Anything further for  
2 Mr. Gerges?

3 MR. McBURNEY: Nothing from the government. Thank  
4 you, Judge.

5 THE COURT: All right. We appreciate you being  
6 with us, Mr. Gerges. You are dismissed, and we may see you  
7 back at the trial, I guess. Thank you for your testimony.

8                   Before we take a lunch break, let's decide what  
9    else needs to be submitted to me, which I guess depends upon  
10   what the government's position is with respect to these  
11   opinions.

12 MR. McBURNEY: Judge, this hearing has been very  
13 helpful in fleshing out the opinion that Dr. Gerges will be  
14 offering.

15 I suspect that we will not be filing anything in  
16 opposition. There were a couple of areas where it became  
17 clearer that reliance on certain materials was partial rather  
18 than complete. I don't think that that's going to cause us  
19 to object. I have a much better understanding now as to the  
20 areas where he will be opining. We will discuss this over  
21 the lunch break.

22 And you set the deadlines. I think the contact  
23 with Ms. Birnbaum will be we don't have an objection. It  
24 wouldn't hurt to say if you are going to file something, file  
25 it by date and time X.

1                   I suspect the answer will be no filing from the  
2 government. We will need to digest this a little bit, but  
3 this was very helpful.

4                   THE COURT: So I guess I could set the deadline  
5 that if you are going to file something, file it by 3:00 this  
6 afternoon.

7                   MR. McBURNEY: You remain in charge, Judge.

8                   THE COURT: Let me think that over the lunch break  
9 too.

10                  I don't think there is that much more to go, but it  
11 is twenty till, and I want people, including members of the  
12 audience that want to continue to listen to this, to have a  
13 chance to get a bite to eat.

14                  So can we break just till -- it's twenty till, can  
15 we reconvene, could everybody get what they need to get done  
16 and reconvene by 1:30?

17                  MR. SAMUEL: Before that, Your Honor. We probably  
18 don't have -- you set the schedule, but I doubt we have more  
19 than thirty more minutes to deal with this. We could do it  
20 faster than that and eat lunch later, but whatever you want  
21 to do is fine with me.

22                  THE COURT: Well, I'm trying to take a broader  
23 approach. I mean, I would never eat lunch, but I have  
24 learned my lesson from my court reporter that that's not an  
25 acceptable position to take.

1                   MR. McBURNEY: That's not universal.

2                   THE COURT: What's that?

3                   MR. McBURNEY: The no lunch plan is not universal.

4                   THE COURT: I have been made well aware of that.

5                   How about we come back at 1:15? Then we will be --  
6                   is that enough? Well, is that enough, Mr. McBurney? He just  
7                   rolled his eyes as if he has got to run off and get more  
8                   substance than that provides.

9                   Let come back at 1:30. All right. We will be in  
10                  recess until 1:30.

11                  (A recess is taken at 12:39 p.m.)

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1 C E R T I F I C A T E  
23 UNITED STATES OF AMERICA :  
4 NORTHERN DISTRICT OF GEORGIA :5 I, Nicholas A. Marrone, RMR, CRR, Official Court  
6 Reporter of the United States District Court for the Northern  
7 District of Georgia, do hereby certify that the foregoing 100  
8 pages constitute a true transcript of proceedings had before  
9 the said Court, held in the city of Atlanta, Georgia, in the  
10 matter therein stated.11 In testimony whereof, I hereunto set my hand on  
12 this, the 17th day of July, 2009.13  
14  
15  
16 /s/ *Nicholas A. Marrone*  
1718 NICHOLAS A. MARRONE, RMR, CRR  
19 Registered Merit Reporter  
Certified Realtime Reporter  
Official Court Reporter  
Northern District of Georgia  
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